

**1981
REVISED CODE
of
WASHINGTON**

1982 SUPPLEMENT

I. SCOPE OF SUPPLEMENT

This volume supplements the 1981 edition of The Revised Code of Washington by adding thereto the following materials:

1. All laws of a general and permanent nature enacted in the 1981 2nd extraordinary session, and in the 1982 regular session, 1982 1st extraordinary session, and 1982 2nd extraordinary session (adjourned sine die July 2, 1982) of the forty-seventh legislature.
2. Measures adopted at the 1981 state general election.
3. Rules of Court promulgated prior to August 2, 1982.
4. Appropriate supplementation of the various tables and the general index.

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CERTIFICATE

This supplement, published officially by the Statute Law Committee, is, in accordance with the provisions of RCW 1.08.037, certified to comply with the current specifications of the committee.

(signed)
ROBERT L. CHARETTE, Chairman
STATUTE LAW COMMITTEE

THE CONSTITUTION OF THE STATE OF WASHINGTON

**Amendment
No.**

- 72 Art. 2 § 1 Legislative powers, where vested.
Art. 2 § 1(a) Initiative and referendum, signatures required. (Stricken)
- 73 Art. 32 § 1 Special revenue financing.

**THE CONSTITUTION
OF THE
STATE OF WASHINGTON**

AMENDMENT 72

Art. 2 § 1 LEGISLATIVE POWERS, WHERE VESTED. The legislative authority of the state of Washington shall be vested in the legislature, consisting of a senate and house of representatives, which shall be called the legislature of the state of Washington, but the people reserve to themselves the power to propose bills, laws, and to enact or reject the same at the polls, independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act, item, section, or part of any bill, act, or law passed by the legislature.

(a) Initiative: The first power reserved by the people is the initiative. Every such petition shall include the full text of the measure so proposed. In the case of initiatives to the legislature and initiatives to the people, the number of valid signatures of legal voters required shall be equal to eight percent of the votes cast for the office of governor at the last gubernatorial election preceding the initial filing of the text of the initiative measure with the secretary of state.

Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon, or not less than ten days before any regular session of the legislature. If filed at least four months before the election at which they are to be voted upon, he shall submit the same to the vote of the people at the said election. If such petitions are filed not less than ten days before any regular session of the legislature, he shall certify the results within forty days of the filing. If certification is not complete by the date that the legislature convenes, he shall provisionally certify the measure pending final certification of the measure. Such initiative measures, whether certified or provisionally certified, shall take precedence over all other measures in the legislature except appropriation bills and shall be either enacted or rejected without change or amendment by the legislature before the end of such regular session. If any such initiative measures shall be enacted by the legislature it shall be subject to the referendum petition, or it may be enacted and referred by the legislature to the people for approval or rejection at the next regular election. If it is rejected or if no action is taken upon it by the legislature before the end of such regular session, the secretary of state shall submit it to the people for approval or rejection at the

next ensuing regular general election. The legislature may reject any measure so proposed by initiative petition and propose a different one dealing with the same subject, and in such event both measures shall be submitted by the secretary of state to the people for approval or rejection at the next ensuing regular general election. When conflicting measures are submitted to the people the ballots shall be so printed that a voter can express separately by making one cross (X) for each, two preferences, first, as between either measure and neither, and secondly, as between one and the other. If the majority of those voting on the first issue is for neither, both fail, but in that case the votes on the second issue shall nevertheless be carefully counted and made public. If a majority voting on the first issue is for either, then the measure receiving a majority of the votes on the second issue shall be law.

(b) Referendum. The second power reserved by the people is the referendum, and it may be ordered on any act, bill, law, or any part thereof passed by the legislature, except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions, either by petition signed by the required percentage of the legal voters, or by the legislature as other bills are enacted: *Provided*, That the legislature may not order a referendum on any initiative measure enacted by the legislature under the foregoing subsection (a). The number of valid signatures of registered voters required on a petition for referendum of an act of the legislature or any part thereof, shall be equal to or exceeding four percent of the votes cast for the office of governor at the last gubernatorial election preceding the filing of the text of the referendum measure with the secretary of state.

(c) No act, law, or bill subject to referendum shall take effect until ninety days after the adjournment of the session at which it was enacted. No act, law, or bill approved by a majority of the electors voting thereon shall be amended or repealed by the legislature within a period of two years following such enactment: *Provided*, That any such act, law, or bill may be amended within two years after such enactment at any regular or special session of the legislature by a vote of two-thirds of all the members elected to each house with full compliance with section 12, Article III, of the Washington Constitution, and no amendatory law adopted in accordance with this provision shall be subject to referendum. But such enactment may be amended or repealed at any general regular or special election by direct vote of the people thereon.

(d) The filing of a referendum petition against one or more items, sections, or parts of any act, law, or bill shall not delay the remainder of the measure from becoming operative. Referendum petitions against measures passed by the legislature shall be filed with the secretary of state not later than ninety days after the final adjournment of the session of the legislature which

passed the measure on which the referendum is demanded. The veto power of the governor shall not extend to measures initiated by or referred to the people. All elections on measures referred to the people of the state shall be had at the next succeeding regular general election following the filing of the measure with the secretary of state, except when the legislature shall order a special election. Any measure initiated by the people or referred to the people as herein provided shall take effect and become the law if it is approved by a majority of the votes cast thereon: *Provided*, That the vote cast upon such question or measure shall equal one-third of the total votes cast at such election and not otherwise. Such measure shall be in operation on and after the thirtieth day after the election at which it is approved. The style of all bills proposed by initiative petition shall be: "Be it enacted by the people of the State of Washington." This section shall not be construed to deprive any member of the legislature of the right to introduce any measure. All such petitions shall be filed with the secretary of state, who shall be guided by the general laws in submitting the same to the people until additional legislation shall especially provide therefor. This section is self-executing, but legislation may be enacted especially to facilitate its operation.

(e) The legislature shall provide methods of publicity of all laws or parts of laws, and amendments to the Constitution referred to the people with arguments for and against the laws and amendments so referred. The secretary of state shall send one copy of the publication to each individual place of residence in the state and shall make such additional distribution as he shall determine necessary to reasonably assure that each voter will have an opportunity to study the measures prior to election. [1981 Substitute Senate Joint Resolution No. 133. Approved November 3, 1981.]

Prior amendment of Art. 2 § 1, see Amendment 7.

Addition of subsection (e) to Art. 2 § 1, see Amendment 36.

Art. 2 § 1(a). INITIATIVE AND REFERENDUM, SIGNATURES REQUIRED. [Stricken by 1981 Substitute Senate Joint Resolution No. 133. Approved November 3, 1981.]

Adoption of Art. 2 § 1(a), see Amendment 30.

AMENDMENT 73

The Constitution was amended by adding the following new article and section 1 thereof:

ARTICLE XXXII

SPECIAL REVENUE FINANCING

Art. 32 § 1 SPECIAL REVENUE FINANCING. The legislature may enact laws authorizing the state, counties, cities, towns, port districts, or public corporations established thereby to issue nonrecourse revenue bonds or other nonrecourse revenue obligations and to apply the proceeds thereof in the manner and for the purposes heretofore or hereafter authorized by law, subject to the following limitations:

(a) Nonrecourse revenue bonds and other nonrecourse revenue obligations issued pursuant to this section shall be payable only from money or other property received as a result of projects financed by the nonrecourse revenue bonds or other nonrecourse revenue obligations and from money and other property received from private sources.

(b) Nonrecourse revenue bonds and other nonrecourse revenue obligations issued pursuant to this section shall not be payable from or secured by any tax funds or governmental revenue or by all or part of the faith and credit of the state or any unit of local government.

(c) Nonrecourse revenue bonds or other nonrecourse revenue obligations issued pursuant to this section may be issued only if the issuer certifies that it reasonably believes that the interest paid on the bonds or obligations will be exempt from income taxation by the federal government.

(d) Nonrecourse revenue bonds or other nonrecourse revenue obligations may only be used to finance industrial development projects as defined in legislation.

(e) The state, counties, cities, towns, port districts, or public corporations established thereby, shall never exercise their respective attributes of sovereignty, including but not limited to, the power to tax, the power of eminent domain, and the police power on behalf of any industrial development project authorized pursuant to this section.

After the initial adoption of a law by the legislature authorizing the issuance of nonrecourse revenue bonds or other nonrecourse revenue obligations, no amendment to such act which expands the definition of industrial development project shall be valid unless the amendment is enacted by a favorable vote of three-fifths of the members elected to each house of the legislature and is subject to referendum petition.

Sections 5 and 7 of Article VIII and section 9 of Article XII shall not be construed as a limitation upon the authority granted by this section. The proceeds of revenue bonds and other revenue obligations issued pursuant to this section for the purpose of financing privately owned property or loans to private persons or corporations shall be subject to audit by the state but shall not otherwise be deemed to be public money or public property for purposes of this Constitution. This section is supplemental to and shall not be construed as a repeal of or limitation on any other authority lawfully exercisable under the Constitution and laws of this state, including, among others, any existing authority to issue revenue bonds. [1981 Substitute House Joint Resolution No. 7. Approved November 3, 1981.]

The name of this Article has been supplied by the reviser.

RULES OF COURT

(as of August 2, 1982)

Adopted by the Supreme Court of the State of Washington

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GENERAL RULES (GR)

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Rule 1 Classification System for Court Rules.

PART I. RULES OF GENERAL APPLICATION

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General Rules	GR
Code of Judicial Conduct	CJC
Discipline Rules for Judges	DRJ
Code of Professional Responsibility	CPR
Admission to Practice Rules	APR
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[Amended June 8, 1982, effective June 8, 1982; amended December 2, 1980, effective January 1, 1981; amended December 19, 1978, effective April 2, 1979; amended September 8, 1976, effective September 24, 1976; amended January 28, 1976, effective July 1, 1976; amended January 31, 1974, effective July 1, 1974; adopted June 28, 1967, effective July 1, 1967.]

Rule 9 Supreme Court Rule-Making Procedure. (a) Statement of Purpose. In promulgating rules of court it

is the purpose of the Washington State Supreme Court to ensure that:

- (1) An orderly and uniform procedure is followed;
- (2) All interested groups are given notice and an opportunity to express views regarding proposed rules;
- (3) Adequate notice of adopted rules changes and of the effective dates is given;
- (4) All proposed rules are necessary statewide;
- (5) Rules changes are minimized to prevent disruption of court practice;
- (6) The purpose of rules of court is to provide necessary governance of court procedure and practice; and
- (7) All rules of court are clear and definite in application.

(b) **Definitions.** As used in this rule, the following terms have these meanings:

- (1) "Suggested rule change" means a recommendation for a rule change or a new rule to the Chief Justice.
- (2) "Proposed rule" means a recommendation for a rule change made by the Judicial Council or by the Bar Association to the Washington State Supreme Court.

(c) **Initiation of Rules Changes.** All suggestions for rules changes shall be sent to the Chief Justice who shall transmit them to the Judicial Council and to the Bar Association except suggestions for a change in the Code of Professional Responsibility, the Admission to Practice Rules or the Disciplinary Rules shall be transmitted only to the Bar.

Any group or association whose members are involved in the court system may file a request with the Chief Justice to receive copies of suggested rule changes. The request may specify that the group or association wishes to receive copies of all suggested rule changes or of only certain kinds of suggested rule changes. The request shall state the person to whom the suggested rule change should be sent. Once filed, the request shall be a continuing one until withdrawn by the group or association.

(d) **Receipt of Proposed Rules by Supreme Court.** Once a suggested rule has been approved by the Judicial Council or by the Bar Association, it shall be transmitted as a proposed rule to the Chief Justice.

The text of all proposed rules shall be typed on 8 1/2 by 11-inch line-numbered paper with consecutive page numbering. If the proposed rule affects an existing rule, deleted portions shall be shown and stricken through; new portions shall be underlined once.

Every proposed rule shall be accompanied by a cover sheet explaining:

- (1) **Background**—what person or group initiated the rules change study and the reason for the request;
- (2) **Purpose**—the purpose of and the necessity for the proposed rule including whether it creates or resolves any conflicts with statutes, case law, or other court rules;
- (3) **Judicial Council or Bar Association Action**—a summary of the viewpoints expressed during the development of and debate over the proposed rule;
- (4) **Supporting Material**—a table of contents listing the material sent to the Supreme Court in support of the proposal including letters, memoranda, minutes of meetings, or research studies;

(5) **Spokesperson**—a designation of the person who is knowledgeable about the proposed rule and who could provide additional information to the Supreme Court;

(6) **Hearing**—whether a hearing is recommended.

All proposed rules must be received by the Supreme Court on or before October 31 to be effective for the succeeding September 1.

(e) **Action by Supreme Court.** If a proposed rule is amended or rejected by the Supreme Court, the Judicial Council and the Bar Association will be notified in writing. If a proposed rule is approved, the Supreme Court will order the proposed rule published for comment.

The Supreme Court may invite persons familiar with the rule to provide additional information.

(f) **Publication for Comment.** All proposed rules approved by the Supreme Court for publication will be published for comment in a Washington Reports advance sheet during the month of January.

All comments shall be directed to the Chief Justice and shall be received no later than the last day of April. If a comment contains a draft of a rule, it must be in the format outlined in 9(d).

All comments received will be kept on file in the office of the clerk of the court for public inspection and copying.

(g) **Final Adoption, Publication, and Effective Date.** After the comment period, the Supreme Court will adopt, amend, or reject a proposed rule or take such other action as the court deems appropriate.

Prior to action by the Supreme Court, the court may, in its discretion, hold a hearing on a proposed rule at a time and in a manner defined by the court.

All adopted rules shall be published the first of July in a special edition of the Washington Reports advance sheet.

All adopted rules shall become effective the first day of September unless an emergency as determined by the Supreme Court necessitates a different effective date.

(h) **Periodic Review.** The Supreme Court, in consultation with the Judicial Council and the Bar Association, will establish procedures for the periodic review of the rules of court.

(i) **Miscellaneous Provisions.** This rule is effective on March 19, 1982, and applies to all proposed rules changes not adopted by the Supreme Court by that date.

The Supreme Court, in its discretion, may adopt, amend, or rescind a rule without following the procedures set forth in this rule. [Adopted March 9, 1982, effective March 19, 1982.]

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Rule 1 Scope of Rules; Parties. (a) Supreme Court Consideration. A decision of the Judicial Qualifications Commission that recommends the discipline or retirement of a judge or justice (hereafter "judge") or that recommends that a judge should or should not be reinstated to eligibility to hold judicial office will be considered by the Supreme Court in the manner provided by these rules.

(b) Judicial Qualifications Commission. The proceedings of the Judicial Qualifications Commission (hereafter "commission") are governed by rules adopted by the commission.

(c) Parties. The only parties to a proceeding under these rules are the commission and the judge who is the subject of the commission recommendation of discipline or retirement.

(d) Discipline. As used in these rules, "discipline" includes admonishment, reprimand, censure, suspension,

and removal from office, but does not include admonishment or reprimand agreed to by the judge as provided in Rule 12. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 2 Initiating Supreme Court Consideration. (a) Generally. Decisions of the commission recommending to the Supreme Court that a judge should be disciplined or retired shall be in writing. The commission shall serve on the judge a copy of its decision recommending that the Supreme Court discipline or retire the judge. Unless a matter is disposed of under Rule 12, the commission shall file a copy of its decision with the Supreme Court when the commission's decision is final under the rules of the commission. The commission shall serve notice on the judge of the date the decision has been filed with the Supreme Court.

(b) Time for Filing. The written decision of the commission shall specify the time period in which the judge may file a notice of contest under Rule 3. The period may not be shorter than 7 days nor longer than 28 days after the date of service on the judge of notice that the decision has been filed with the Supreme Court. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 3 Contesting Recommendation. (a) Generally. A judge who seeks to contest a recommendation of discipline or retirement must file a notice of contest with the Supreme Court and the commission. The notice must be filed within the time period specified in the decision of the commission as provided in Rule 2(b).

(b) Form of Notice. The notice of contest must (1) be titled a notice of contest, (2) describe the portions of the recommendation of the commission that the judge wishes to contest, and (3) name the judge seeking to contest the recommendation. The notice must be signed by the judge or by counsel. The name, address, and telephone number of the lawyer for any party represented by counsel should be placed on the notice. The residence address and telephone number of the judge seeking to contest the recommendation should also be included on the notice. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 4 Record on Review. (a) Transcription of Proceedings. Except as provided in section (b), upon receipt of a timely filed notice of contest, the commission shall at its own expense transcribe those portions of the record of the proceedings involving those charges upon which the recommendation of the commission is based. The transcription of the record and copies of relevant material filed with the commission shall be forwarded by the commission to the judge within the time authorized by the Supreme Court. Any objections relating to the accuracy and content of the record must be made within 14 days after service of the record on the judge. Objections shall be decided in accordance with the rules of the commission. The commission shall forward the record to the Supreme Court after objections are determined by the commission, or in the absence of objection, after the time for objection has expired.

(b) Agreed Record in Contested Proceedings. The commission and the judge may agree to a record in contested proceedings different from that required by section (a). The agreed record shall contain sufficient material to permit the Supreme Court to consider the decision of the commission.

(c) Uncontested Proceedings. If the judge has not timely filed a notice of contest, the record shall consist of the decision of the commission and any other portions of the proceeding which the Supreme Court deems relevant for its consideration. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 5 Briefs. (a) Contested Proceedings. If a notice of contest is timely filed, the Supreme Court will establish a schedule for filing briefs.

(b) Uncontested Proceedings. If a notice of contest is not timely filed, briefs will not be required unless requested by the Supreme Court.

(c) Content of Brief. A brief should contain under appropriate headings and in the order here indicated:

(1) *Title Page.* A title page, which is the cover.

(2) *Tables.* A table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the brief where cited.

(3) *Statement of the Case.* A fair statement of the facts and procedure relevant to the recommended discipline or retirement, without argument. Reference to the record must be included for each factual statement.

(4) *Statement of the Issues.* A statement of the issues presented by the commission's recommendation.

(5) *Argument.* The argument in support of the relief sought by the party filing the brief, together with citations to legal authority and references to relevant parts of the record. The argument may be preceded by a summary.

(6) *Conclusion.* A short conclusion stating the precise relief sought.

(7) *Appendix.* An appendix to the brief if deemed appropriate by the party submitting the brief.

(d) Typing and Filing Brief. Rule of Appellate Procedure 10.4(a) is applicable to briefs filed under these rules.

(e) Preparation of Brief. Rules of Appellate Procedure 10.4(b), (c), (e), (f), and (g) are applicable to briefs filed under these rules.

(f) Service of Brief. A party shall serve a copy of the party's brief on all other parties at or before the time the brief is filed with the Supreme Court.

(g) Reproduction of Brief. Rule of Appellate Procedure 10.5(a) is applicable to a brief filed under these rules.

(h) Submission of Improper Brief. Rule of Appellate Procedure 10.7 is applicable to a brief filed under these rules.

(i) Amicus Curiae Brief. Rule of Appellate Procedure 10.6 is applicable to an amicus curiae brief filed under these rules. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 6 Hearing. (a) Contested Proceedings. If a notice of contest is timely filed, the Supreme Court will set the

date for the hearing with oral argument. Oral argument will be governed by Title 11 of the Rules of Appellate Procedure.

(b) Uncontested Proceedings. If a notice of contest has not been filed, oral argument will not be held unless requested by the Supreme Court. The Supreme Court will nevertheless notify the parties of the date set for the hearing without oral argument. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 7 Additional Evidence or Findings—Remand. If the Supreme Court on its own motion or on the motion of the commission or the judge determines that further commission proceedings, additional evidence, or additional findings will aid the Supreme Court, the Supreme Court may remand the case to the commission or accept supplementary materials without remand. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 8 Motion. (a) Relief Available. A party may seek relief, other than a decision of the case on the merits, by a motion. Rules of Appellate Procedure 17.3(a) and 17.4 are applicable to the motion filed under these rules.

(b) No Oral Argument. Motions will ordinarily be decided without oral argument.

(c) Motions Decided by Department or Full Court. A motion will be decided by a department of the Supreme Court or by the full Supreme Court. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 9 Decision and Reconsideration. (a) Decision by Full Court. Hearings on the merits under these rules will ordinarily be heard by nine justices. A reference to Supreme Court Justice or justices in these rules includes regular and pro tempore justices. A reference to the Supreme Court includes the Supreme Court as regularly constituted, and the Supreme Court with one or more justices pro tempore.

(b) Postponement of Decision. The Supreme Court may postpone Supreme Court proceedings involving a judge if there are other proceedings pending before the commission involving that same judge.

(c) Decision Imposing Discipline or Retirement. Discipline may be imposed or retirement ordered only upon the affirmative vote of at least five Supreme Court Justices. The decision of the court shall be in the form of a written opinion. The Supreme Court may impose the sanction recommended by the commission, or any other sanction that the Supreme Court deems proper.

(d) Finality of Decision. The decision of the Supreme Court becomes final 14 days after the decision is filed, unless a motion for reconsideration of the decision is earlier filed. If a timely motion for reconsideration is filed, the decision of the Supreme Court becomes final when the motion for reconsideration is denied. If the motion for reconsideration is granted, the reconsidered decision is final when filed. The Supreme Court decision is effective when final, unless otherwise provided by the Supreme Court in its decision.

(e) Motion for Reconsideration. A party seeking reconsideration of a decision must file a motion for reconsideration within 14 days after the decision of the

Supreme Court has been filed. Rules of Appellate Procedure 12.4(c) through (h) are applicable to proceedings under these rules. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 10 Effect of Discipline. (a) Removal or Retirement. The office of a judge removed or retired by the Supreme Court becomes vacant when the Supreme Court decision is final. A judge may not perform any judicial duties thereafter. A judge who is removed or retired by the Supreme Court is no longer eligible for judicial office unless the eligibility of the person removed or retired is reinstated by the Supreme Court.

(b) Suspension. The office of a judge suspended by the Supreme Court does not become vacant, but the judge may not perform any judicial duties during the period of suspension, except to the extent the decision of the Supreme Court provides otherwise.

(c) Effect of Discipline on Salary. A decision imposing discipline other than removal or retirement will state the effect of the discipline upon the salary of the judge. Subject to the limitation in Rule 9(c), the Supreme Court may diminish the salary of the judge based only on the prospective future decrease in the judge's workload brought about by the discipline imposed by the Supreme Court. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 11 Reinstatement of Eligibility to Hold Judicial Office. (a) Petition Filed With Commission. A former judge who has been removed from office or retired by the Supreme Court may apply to the commission for reinstatement of eligibility to hold judicial office.

(b) Commission Recommendation. The commission shall determine whether the applicant has made an affirmative showing that reinstatement will not be detrimental to the integrity and standing of the judiciary and the administration of justice, or be contrary to the public interest. The commission recommendation on the application shall be in writing.

(c) Supreme Court Procedure. A decision recommending that a former judge should or should not be reinstated to eligibility to hold judicial office shall be processed under these rules in the same manner as a decision of the commission recommending the discipline or retirement of a judge. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 12 Informal Admonishment or Reprimand by Commission. (a) Generally. The commission may informally admonish or reprimand a judge, but only with the agreement of that judge. The agreement shall provide whether the agreement of the judge to the admonishment or reprimand may be considered as an admission of misconduct by the judge. In any event, the conduct causing the admonishment or reprimand may be considered in the event of a future complaint against the same judge. The agreed admonishment or reprimand may include an agreement by the judge to desist from certain prescribed conduct.

(b) Effect of Informal Admonishment or Reprimand. An agreement to informally admonish or reprimand a

judge terminates the complaint or complaints which gave rise to the admonishment or reprimand, without the necessity of referring the matter to the Supreme Court. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 13 Substitute Panel. (a) Generally. If a justice of the Supreme Court is the subject of a recommendation for discipline or retirement, a substitute panel of nine judges shall be selected as provided in this rule to serve as justices pro tempore to consider the commission recommendation.

(b) Selection of Justices Pro Tempore. The presiding chief judge of the Court of Appeals shall be one member of the substitute panel and shall be the chief justice pro tempore unless the judge disqualifies himself or herself or is otherwise disqualified by section (c). The clerk of the Supreme Court shall select the balance of the justices pro tempore by lot from all remaining active Court of Appeals judges. If there are fewer than nine judges of the Court of Appeals who are not disqualified, the panel shall be completed by the clerk by selecting by lot from the active superior court judges until a full panel of nine justices pro tempore has been selected.

(c) Disqualification. A judge may disqualify himself or herself without cause. No judge who has served as a master or a member of the commission in the particular proceeding or who is otherwise disqualified may serve on the substitute panel. No judge against whom a formal charge is pending before the commission shall serve on the panel.

(d) Chief Justice Pro Tempore. If the presiding chief judge of the Court of Appeals is not a member of the substitute panel, the substitute panel shall select one of its members to serve as chief justice pro tempore. [Adopted May 6, 1982, effective May 14, 1982.]

Rule 14 Supplemental Provisions. (a) Service and Filing With the Court. Rule of Appellate Procedure 18.5 governs service, proof of service, and filing of papers under these rules.

(b) Computation of Time. Rule of Appellate Procedure 18.6 applies to the computation of time under these rules.

(c) Waiver of Rules and Sanctions for Violation of Rules. Rules of Appellate Procedure 18.8(a) and (d) and 18.9(a) are applicable to proceedings under these rules.

(d) Applicability of RAP. Upon order of the Supreme Court, the Rules of Appellate Procedure may be made applicable to any part of the proceeding involving the discipline or retirement of a judge not governed by these rules. [Adopted May 6, 1982, effective May 14, 1982.]

CODE OF PROFESSIONAL RESPONSIBILITY (CPR)

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CANON 2

A LAWYER SHOULD ASSIST THE LEGAL PROFESSION IN FULFILLING ITS DUTY TO MAKE LEGAL COUNSEL AVAILABLE

DR 2-101 Publicity.

(A) A lawyer shall not, on behalf of himself, his partner, associate or any other lawyer affiliated with him or his firm, use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim.

(B) In order to facilitate the process of informed selection of a lawyer by potential consumers of legal services, a lawyer may publish or broadcast, subject to (CPR) DR 2-103, the following information in print media distributed in the geographic area or areas in which the lawyer resides or maintains offices or in which a significant part of the lawyer's clientele resides, provided that the information disclosed by the lawyer in such publication or broadcast complies with (CPR) DR 2-101(A), and is presented in a dignified manner:

- (1) Name, including name of law firm and names of professional associates; addresses and telephone numbers;
- (2) One or more fields of law in which the lawyer or law firm practices or a statement that practice is limited to one or more fields of law;
- (3) To the extent authorized under (CPR) DR 2-105, a statement that the lawyer specializes in a particular field of law practice. Absent such authorization, a lawyer may not hold himself or herself out as a specialist or as specializing in any field of law;
- (4) Date and place of birth;
- (5) Date and place of admission to the bar of state and federal courts;
- (6) Schools attended, with dates of graduation, degrees and other scholastic distinctions;
- (7) Public or quasi-public offices;
- (8) Military service;
- (9) Legal authorships;
- (10) Legal teaching position;
- (11) Memberships, offices, and committee assignments, in bar associations;
- (12) Membership and offices in legal fraternities and legal societies;
- (13) Technical and professional licenses;

- (14) Memberships in scientific, technical and professional associations and societies;
 - (15) Foreign language ability;
 - (16) Names and addresses of bank references;
 - (17) With their written consent, names of clients regularly represented;
 - (18) Prepaid or group legal services programs in which the lawyer participates;
 - (19) Whether credit cards or other credit arrangements are accepted;
 - (20) Office and telephone answering service hours;
 - (21) Fee for an initial consultation;
 - (22) Availability upon request of a written schedule of fees and/or an estimate of the fee to be charged for specific services;
 - (23) Contingent fee rates subject to (CPR) DR 2-106(C), provided that the statement discloses whether percentages are computed before or after deduction of costs;
 - (24) Range of fees for services, provided that the statement discloses that the specific fee within the range which will be charged will vary depending upon the particular matter to be handled for each client and the client is entitled, without obligation, to an estimate of the fee within the range likely to be charged, in print size equivalent to the largest print used in setting forth the fee information;
 - (25) Hourly rate, provided that the statement discloses that the total fee charged will depend upon the number of hours which must be devoted to the particular matter to be handled for each client and the client is entitled, without obligation, to an estimate of the fee likely to be charged, in print size at least equivalent to the largest print used in setting forth the fee information;
 - (26) Fixed fees for specific legal services, the description of which would not be misunderstood or be deceptive, provided that the statement discloses that the quoted fee will be available only to clients whose matters fall into the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged in print size at least equivalent to the largest print used in setting forth the fee information;
- (C) Any person desiring to expand the information authorized for disclosure in (CPR) DR 2-101(B), or to provide for its dissemination through other forums may apply to the Code of Professional Responsibility Committee of the Washington State Bar Association. Any such application shall be directed to the chairman of the committee at the office of the Washington State Bar Association. Any such application shall be heard expeditiously by the committee. The applicant shall have the right to be heard in person and the committee may hear such other persons as it deems appropriate on the issue of whether the proposal is necessary in light of the existing provisions of the code, accords with standards of accuracy, reliability and truthfulness, and would facilitate the process of informed selection of lawyers by potential consumers of legal services. The committee shall establish such rules as it deems appropriate to assure orderly, fair and expeditious procedures for hearing and

recommending relief. Any recommended relief shall be recommended to the Supreme Court as an amendment to (CPR) DR 2-101(B), and shall be universally applicable to all lawyers.

(D) If a lawyer advertises a fee for a service, the lawyer must render that service for no more than the fee advertised.

(E) Unless otherwise specified in the advertisement if a lawyer publishes any fee information authorized under (CPR) DR 2-101(B) in a publication that is published more frequently than one time per month, the lawyer shall be bound by any representation made therein for a period of not less than 30 days after such publication. If a lawyer publishes any fee information authorized under (CPR) DR 2-101(B) in a publication that is published once a month or less frequently, he shall be bound by any representation made therein until the publication of the succeeding issue. If a lawyer publishes any fee information authorized under (CPR) DR 2-101(B) in a publication which has no fixed date for publication of a succeeding issue, the lawyer shall be bound by any representation made therein for a reasonable period of time after publication but in no event less than 1 year.

(F) This rule does not prohibit limited and dignified identification of a lawyer as a lawyer as well as by name:

(1) In political advertisements when his professional status is germane to the political campaign or to a political issue.

(2) In public notices when the name and profession of a lawyer are required or authorized by law or are reasonably pertinent for a purpose other than the attraction of potential clients.

(3) In routine reports and announcements of a bona fide business, civic, professional, or political organization in which he serves as a director or officer.

(4) In and on legal documents prepared by him.

(5) In and on legal textbooks, treatises, and other legal publications, and in dignified advertisements thereof.

(G) A lawyer shall not compensate or give any thing of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item. A paid advertisement must be identified as such unless it is apparent from the context that it is a paid advertisement. If the advertisement is communicated to the public by use of radio or television, a recording of the actual transmission shall be retained in the lawyer's or law firm's records for a period of 3 years.

DR 2-102 Professional Notices, Letterheads and Offices.

(A) A lawyer or law firm shall not use or participate in the use of professional cards, professional announcement cards, office signs, letterheads, or similar professional notices or devices, except that the following may be used if they are in dignified form:

(1) A professional card of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm, and any information permitted under (CPR) DR 2-105. A professional card of a law firm may also give the names

of members and associates. Such cards may be used for identification.

(2) A brief professional announcement card stating new or changed associations or addresses, change of firm name, or similar matters pertaining to the professional offices of a lawyer or law firm, which may be mailed to lawyers, clients, former clients, personal friends, and relatives. It shall not state biographical data except to the extent reasonably necessary to identify the lawyer or to explain the change in his association, but it may state the immediate past position of the lawyer. It may give the names and dates of predecessor firms in a continuing line of succession. It shall not state the nature of the practice except as permitted under (CPR) DR 2-105.

(3) A sign on or near the door of the office and in the building directory identifying the law office. The sign shall not state the nature of the practice, except as permitted under (CPR) DR 2-105.

(4) A letterhead of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm, associates and any information permitted under (CPR) DR 2-105. A letterhead of a law firm may also give the names of members and associates, and names and dates relating to deceased and retired members. A lawyer may be designated "Of Counsel" on a letterhead if he has a continuing relationship with a lawyer or law firm, other than as a partner or associate. A lawyer or law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if he or the firm devotes a substantial amount of professional time in the representation of that client. The letterhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession.

(B) A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the name of a professional corporation or professional association may contain "P.C." or "P.A." or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. A lawyer who assumes a judicial, legislative, or public executive or administrative post or office shall not permit his name to remain in the name of a law firm or to be used in professional notices of the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm, and during such period other members of the firm shall not use his name in the firm name or in professional notices of the firm.

(C) A lawyer shall not hold himself out as having a partnership with one or more other lawyers unless they are in fact partners.

(D) A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other

permissible listings make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction.

(E) A lawyer who is engaged both in the practice of law and another profession or business shall not so indicate on his letterhead, office sign, or professional card, nor shall he identify himself as a lawyer in any publication in connection with his other profession or business.

(F) Nothing contained herein shall prohibit a lawyer from using or permitting the use of, in connection with his name, an earned degree or title derived therefrom indicating his training in the law.

DR 2-103 Recommendation of Professional Employment.

(A) A lawyer shall not, except as authorized in (CPR) DR 2-101(B), recommend employment as a private practitioner, of himself, his partner, or associate to a layperson who has not sought his advice regarding employment of a lawyer.

(B) Except as permitted under (CPR) DR 2-103(C), a lawyer shall not compensate or give anything of value to a person or organization to recommend or secure his employment by a client, or as a reward for having made a recommendation resulting in his employment by a client.

(C) A lawyer shall not request a person or organization to recommend or promote the use of his services or those of his partner or associate, or any other lawyer affiliated with him or his firm, as a private practitioner, except as authorized in (CPR) DR 2-101, and except that

(1) He may request referrals from a lawyer referral service operated, sponsored, or approved by a bar association and may pay its fees incident thereto.

(2) He may cooperate with the legal service activities of any of the offices or organizations enumerated in (CPR) DR 2-103(D)(1) through (4) and may perform legal services for those to whom he was recommended by it to do such work if:

(a) The person to whom the recommendation is made is a member or beneficiary of such office or organization; and

(b) The lawyer remains free to exercise his independent professional judgment on behalf of his client.

(D) A lawyer or his partner or associate or any other lawyer affiliated with him or his firm may be recommended, employed or paid by, or may cooperate with, one of the following offices or organizations that promote the use of his services or those of his partner or associate or any other lawyer affiliated with him or his firm if there is no interference with the exercise of independent professional judgment in behalf of his client:

(1) A legal aid office or public defender office:

(a) Operated or sponsored by a duly accredited law school.

(b) Operated or sponsored by a bona fide nonprofit community organization.

(c) Operated or sponsored by a governmental agency.

(d) Operated, sponsored, or approved by a bar association.

(2) A military legal assistance office.

(3) A lawyer referral service operated, sponsored, or approved by a bar association.

(4) Any bona fide organization that recommends, furnishes or pays for legal services to its members or beneficiaries provided the following conditions are satisfied:

(a) Such organization, including any affiliate, is so organized and operated that no profit is derived by it from the rendition of legal services by lawyers, and that, if the organization is organized for profit, the legal services are not rendered by lawyers employed, directed, supervised or selected by it except in connection with matters where such organization bears ultimate liability of its member or beneficiary.

(b) Neither the lawyer, nor his partner, nor associate, nor any other lawyer affiliated with him or his firm, nor any nonlawyer, shall have initiated or promoted such organization for the primary purpose of providing financial or other benefit to such lawyer, partner, associate or affiliated lawyer.

(c) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.

(d) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.

(e) Any member or beneficiary who is entitled to have legal services furnished or paid for by the organization may, if such member or beneficiary so desires, select counsel other than that furnished, selected or approved by the organization for the particular matter involved; and the legal service plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that representation by counsel furnished, selected or approved would be unethical, improper or inadequate under the circumstances of the matter involved and the plan provides an appropriate procedure for seeking such relief.

(f) The lawyer does not know or have cause to know that such organization is in violation of applicable laws, rules of court and other legal requirements that govern its legal service operations.

(g) Such organization has filed with the appropriate disciplinary authority at least annually a report with respect to its legal service plan, if any, showing its terms, its schedule of benefits, its subscription charges, agreements with counsel, and financial results of its legal service activities or, if it has failed to do so, the lawyer does not know or have cause to know of such failure.

(E) A lawyer shall not accept employment when he knows or it is obvious that the person who seeks his services does so as a result of conduct prohibited under this disciplinary rule.

DR 2-104 Suggestion of Need of Legal Services.

(A) A lawyer who has given in-person unsolicited advice to a layperson that he should obtain counsel or take legal action shall not accept employment resulting from that advice, except that:

(1) A lawyer may accept employment by a close friend, relative, former client (if the advice is germane to

the former employment), or one whom the lawyer reasonably believes to be a client.

(2) A lawyer may accept employment that results from his participation in activities designed to educate laypersons to recognize legal problems, to make intelligent selection of counsel, or to utilize available legal services if such activities are conducted or sponsored by a qualified legal assistance organization.

(3) A lawyer who is recommended, furnished, or paid by a qualified legal assistance organization enumerated in (CPR) DR 2-103(D)(1) through (4) may represent a member or beneficiary thereof, to the extent and under the conditions prescribed therein.

(4) Without affecting his right to accept employment, a lawyer may speak publicly or write for publication on legal topics so long as he does not emphasize his own professional experience or reputation and does not undertake to give individual advice.

(5) If success in asserting rights or defenses of his client in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept, but shall not seek, employment from those contacted for the purpose of obtaining their joinder.

DR 2-105 Specialization.

(A) A lawyer shall not hold himself out publicly as a specialist except as follows:

(1) A lawyer admitted to practice before the United States Patent and Trademark Office may use the designation Patent Attorney, Patent Lawyer, Trademark Attorney, or Trademark Lawyer, or Registered Patent Attorney or any combination of those terms, on his letterhead and office sign, and a lawyer actively engaged in the admiralty practice may use the designation Admiralty or Admiralty Lawyer on his letterhead and office sign.

(2) A lawyer who is certified as a specialist in a particular field of law or law practice pursuant to legal specialization rules and regulations promulgated by the Supreme Court may hold himself out as such, but only in accordance with the rules and regulations prescribed by that authority.

DR 2-106 Fees for Legal Services.

(A) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

(B) A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.

(3) The fee customarily charged in the locality for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the client or by the circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation, and ability of the lawyer or lawyers performing the services.

(8) Whether the fee is fixed or contingent.

(C) A lawyer shall not enter into an arrangement for, charge, or collect a contingent fee for representing a defendant in a criminal case.

DR 2-107 Division of Fees Among Lawyers.

(A) A lawyer shall not divide a fee for legal services with another lawyer who is not a partner in or associate of his law firm or law office, unless:

(1) The client consents to employment of the other lawyer after a full disclosure that a division of fees will be made.

(2) The division is made in proportion to the services performed and responsibility assumed by each.

(3) The total fee of the lawyers does not clearly exceed reasonable compensation for all legal services they rendered the client.

(B) This Disciplinary Rule does not prohibit payment to a former partner or associate pursuant to a separation or retirement agreement.

DR 2-108 Agreements Restricting the Practice of a Lawyer.

(A) A lawyer shall not be a party to or participate in a partnership or employment agreement with another lawyer that restricts the right of a lawyer to practice law after the termination of a relationship created by the agreement, except as a condition to payment of retirement benefits.

(B) In connection with the settlement of a controversy or suit, a lawyer shall not enter into an agreement that restricts his right to practice law except in or connected with disciplinary proceedings against the lawyer.

DR 2-109 Acceptance of Employment.

(A) A lawyer shall not accept employment on behalf of a person if he knows or it is obvious that such person wishes to:

(1) Bring a legal action, conduct a defense, or assert a position in litigation, or otherwise have steps taken for him, merely for the purpose of harassing or maliciously injuring any person.

(2) Present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by good faith argument for an extension, modification, or reversal of existing law.

DR 2-110 Withdrawal From Employment.

(A) In general.

(1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) In any event, a lawyer shall not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his client, including

giving due notice to his client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

(3) A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.

(B) Mandatory withdrawal.

A lawyer representing a client before a tribunal, with its permission if required by its rules, shall, notwithstanding RCW 2.44.040, withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

(1) He knows or it is obvious that his client is bringing the legal action, conducting the defense, or asserting a position in the litigation, or is otherwise having steps taken for him, merely for the purpose of harassing or maliciously injuring any person.

(2) He knows or it is obvious that his continued employment will result in violation of a Disciplinary Rule.

(3) His mental or physical condition renders it unreasonably difficult for him to carry out the employment effectively.

(4) He is discharged by his client.

(C) Permissive withdrawal.

If DR 2-110(B) is not applicable, a lawyer may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless such request or such withdrawal is because:

(1) His client:

(a) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law.

(b) Personally seeks to pursue an illegal course of conduct.

(c) Insists that the lawyer pursue a course of conduct that is illegal or that is prohibited under the Disciplinary Rules.

(d) By other conduct renders it unreasonably difficult for the lawyer to carry out his employment effectively.

(e) Insists, in a matter not pending before a tribunal, that the lawyer engage in conduct that is contrary to the judgment and advice of the lawyer but not prohibited under the Disciplinary Rules.

(f) Deliberately disregards an agreement or obligation to the lawyer as to expenses or fees.

(2) His continued employment is likely to result in a violation of a Disciplinary Rule.

(3) His inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal.

(4) His mental or physical condition renders it difficult for him to carry out the employment effectively.

(5) His client knowingly and freely assents to termination of his employment.

(6) He believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

ETHICAL CONSIDERATIONS

EC 2-1 The need of members of the public for legal services is met only if they recognize their legal problems, appreciate the importance of seeking assistance, and are able to obtain the services of acceptable legal counsel. Hence, important functions of the legal profession are to educate laymen to recognize their problems, to facilitate the process of intelligent selection of lawyers, and to assist in making legal services fully available.

Recognition of Legal Problems

EC 2-2 The legal profession should assist laypersons to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal problems that frequently arise. Preparation of advertisements and professional articles for lay publications and participation in seminars, lectures, and civic programs should be motivated by a desire to educate the public to an awareness of legal needs and to provide information relevant to the selection of the most appropriate counsel rather than to obtain publicity for particular lawyers. The problems of advertising on radio and television require special consideration, due to the style, cost, and transitory nature of such media. If the interests of laypersons in receiving relevant lawyer advertising are not adequately served by print media, and if adequate safeguards to protect the public can reasonably be formulated, radio and television advertising may serve a public interest.

EC 2-3 Whether a lawyer acts properly in volunteering in-person advice to a layperson to seek legal services depends upon the circumstances. The giving of advice that one should take legal action could well be in fulfillment of the duty of the legal profession to assist laypersons in recognizing legal problems. The advice is proper only if motivated by a desire to protect one who does not recognize that he may have legal problems or who is ignorant of his legal rights or obligations. It is improper if motivated by a desire to obtain personal benefit, secure personal publicity, or cause legal action to be taken merely to harass or injure another. A lawyer should not initiate an in-person contact with a nonclient, personally or through a representative, for the purpose of being retained to represent him for compensation.

EC 2-4 Since motivation is subjective and often difficult to judge, the motives of a lawyer who volunteers in-person advice likely to produce legal controversy may well be suspect if he receives professional employment or other benefits as a result. A lawyer who volunteers in-person advice that one should obtain the services of a lawyer generally should not himself accept employment, compensation, or other benefit in connection with that matter. However, it is not improper for a lawyer to volunteer such advice and render resulting legal services to close friends, relatives, former clients (in regard to matters germane to former employment), and regular clients.

EC 2-5 A lawyer who writes or speaks for the purpose of educating members of the public to recognize their legal problems should carefully refrain from giving or appearing to give a general solution applicable to all apparently similar individual problems, since slight changes in fact situations may require a material variance in the applicable advice; otherwise, the public may be misled and misadvised. Talks and writings by lawyers for laypersons should caution them not to attempt to solve individual problems upon the basis of the information contained therein.

Selection of a Lawyer

EC 2-6 Formerly a potential client usually knew the reputations of local lawyers for competency and integrity and therefore could select a practitioner in whom he had confidence. This traditional selection process worked well because it was initiated by the client and the choice was an informed one.

EC 2-7 Changed conditions, however, have seriously restricted the effectiveness of the traditional selection process. Often the reputations of lawyers are not sufficiently known to enable laypersons to make intelligent choices. The law has become increasingly complex and specialized. Few lawyers are willing and competent to deal with every kind of legal matter, and many laypersons have difficulty in determining the competence of lawyers to render different types of legal services. The selection of legal counsel is particularly difficult for transients, persons moving into new areas, persons of limited education or means, and

others who have little or no contact with lawyers. Lack of information about the availability of lawyers, the qualifications of particular lawyers, and the expense of legal representation leads laypersons to avoid seeking legal advice.

EC 2-8 Selection of a lawyer by a layperson should be made on an informed basis. Advice and recommendation of third parties—relatives, friends, acquaintances, business associates, or other lawyers—and disclosure of relevant information about the lawyer and his practice may be helpful. A layperson is best served if the recommendation is disinterested and informed. In order that the recommendation be disinterested, a lawyer should not seek to influence another to recommend his employment. A lawyer should not compensate another person for recommending him, for influencing a prospective client to employ him, or to encourage future recommendations. Advertisements and public communications, whether in law lists, telephone directories, newspapers, other forms, or on radio or television, should be formulated to convey only information that is necessary to make an appropriate selection. Such information includes: (1) office information, such as name, including name of law firm and names of professional associates; addresses; telephone numbers; credit card acceptability; fluency in foreign languages; and office hours; (2) relevant biographical information; (3) one or more fields of law in which the lawyer or law firm practices; a statement that practice is limited to one or more fields of law; and/or a statement that the lawyer or law firm specializes in a particular field of law practice, but only to the extent authorized by applicable rules and regulations adopted by the Supreme Court; and (4) permitted fee information. Self-laudation should be avoided.

Selection of a Lawyer: Lawyer Advertising

EC 2-9 The lack of sophistication on the part of many members of the public concerning legal services, the importance of the interests affected by the choice of a lawyer and prior experience with unrestricted lawyer advertising, require that special care be taken by lawyers to avoid misleading the public and to assure that the information set forth in any advertising is relevant to the selection of a lawyer. The lawyer must be mindful that the benefits of lawyer advertising depend upon its reliability and accuracy. Examples of information in law advertising that would be deceptive include misstatements of fact, suggestions that the ingenuity or prior record of a lawyer rather than the justice of the claim are the principal factors likely to determine the result, inclusion of information irrelevant to selecting a lawyer, and representations concerning the quality of service, which cannot be measured or verified. Since lawyer advertising is calculated and not spontaneous, reasonable regulation of lawyer advertising designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.

EC 2-10 A lawyer should insure that the information contained in any advertising which the lawyer publishes, or causes to be published, is relevant, is disseminated in an objective and understandable fashion, and would facilitate the prospective client's ability to compare the qualifications of the lawyers available to represent him. A lawyer should strive to communicate such information without undue emphasis upon style and advertising stratagems which serve to hinder rather than to facilitate intelligent selection of counsel. Because technological change is a recurrent feature of communications forms, and because perceptions of what is relevant in lawyer selection may change, lawyer advertising regulations should not be cast in rigid, unchangeable terms. Machinery is therefore available for prompt consideration of proposals to change the rules governing lawyer advertising. The determination of any request for such change should depend upon whether the proposal is necessary in light of existing code provisions, whether the proposal accords with standards of accuracy, reliability and truthfulness, and whether the proposal would facilitate informed selection of lawyers by potential consumers of legal services. Any change which is approved should be promulgated in the form of an amendment to the code so that all lawyers practicing in the jurisdiction may avail themselves of its provisions.

EC 2-11 The name under which a lawyer conducts his practice may be a factor in the selection process. The use of a trade name or an assumed name could mislead laypersons concerning the identity, responsibility, and status of those practicing thereunder. Accordingly, a lawyer in private practice should practice only under a designation containing his own name, the name of a lawyer employing him, the name of one or more of the lawyers practicing in a partnership, or, if permitted by law, the name of a professional legal corporation, which should be clearly designated as such. For many years some law firms

have used a firm name retaining one or more names of deceased or retired partners and such practice is not improper if the firm is a bona fide successor of a firm in which the deceased or retired person was a member, if the use of the name is authorized by law or by contract, and if the public is not misled thereby. However, the name of a partner who withdraws from a firm but continues to practice law should be omitted from the firm name in order to avoid misleading the public.

EC 2-12 A lawyer occupying a judicial, legislative, or public executive or administrative position who has the right to practice law concurrently may allow his name to remain in the name of the firm if he actively continues to practice law as a member thereof. Otherwise, his name should be removed from the firm name, and he should not be identified as a past or present member of the firm; and he should not hold himself out as being a practicing lawyer.

EC 2-13 In order to avoid the possibility of misleading persons with whom he deals, a lawyer should be scrupulous in the representation of his professional status. He should not hold himself out as being a partner or associate of a law firm if he is not one in fact, and thus should not hold himself out as a partner or associate if he only shares offices with another lawyer.

EC 2-14 In some instances a lawyer confines his practice to a particular field of law. In the absence of state controls to insure the existence of special competence, a lawyer should not be permitted to hold himself out as a specialist or as having official recognition as a specialist, other than in the fields of admiralty, trademark, and patent law where a holding out as a specialist historically has been permitted and in specialties in which the lawyer has been certified as a specialist pursuant to rules and regulations adopted by the Supreme Court. A lawyer may, however, indicate in permitted advertising, if it is factual, a limitation of his practice or one or more particular areas or fields of law in which he practices. A lawyer must always be careful not to confuse laypersons as to his status. If a lawyer discloses areas of law in which he practices or to which he limits his practice, but is not certified as a specialist, he should avoid any implication that he is fact certified.

EC 2-15 The legal profession has developed lawyer referral systems designed to aid individuals who are able to pay fees but need assistance in locating lawyers competent to handle their particular problems. Use of a lawyer referral system enables a layman to avoid an uninformed selection of a lawyer because such a system makes possible the employment of competent lawyers who have indicated an interest in the subject matter involved. Lawyers should support the principle of lawyer referral systems and should encourage the evolution of other ethical plans which aid in the selection of qualified counsel.

EC 2-16 The legal profession cannot remain a viable force in fulfilling its role in our society unless its members receive adequate compensation for services rendered, and reasonable fees should be charged in appropriate cases to clients able to pay them. Nevertheless, persons unable to pay all or a portion of a reasonable fee should be able to obtain necessary legal services, and lawyers should support and participate in ethical activities designed to achieve that objective.

*Financial Ability to Employ Counsel:
Persons Able to Pay Reasonable Fees*

EC 2-17 The determination of a proper fee requires consideration of the interests of both client and lawyer. A lawyer should not charge more than a reasonable fee, for excessive cost of legal service would deter laymen from utilizing the legal system in protection of their rights. Furthermore, an excessive charge abuses the professional relationship between lawyer and client. On the other hand, adequate compensation is necessary in order to enable the lawyer to serve his client effectively and to preserve the integrity and independence of the profession.

EC 2-18 The determination of the reasonableness of a fee requires consideration of all relevant circumstances, including those stated in the Disciplinary Rules. The fees of a lawyer will vary according to many factors, including the time required, his experience, ability, and reputation, the nature of the employment, the responsibility involved, and the results obtained. Suggested fee schedules and economic reports of state and local bar associations provide some guidance on the subject of reasonable fees. It is a commendable and long-standing tradition of the bar that special consideration is given in the fixing of any fee for services rendered a brother lawyer or a member of his immediate family.

EC 2-19 As soon as feasible after a lawyer has been employed, it is desirable that he reach a clear agreement with his client as to the basis of the fee charges to be made. Such a course will not only prevent later misunderstanding but will also work for good relations between the lawyer and the client. It is usually beneficial to reduce to writing the understanding of the parties regarding the fee, particularly when it is contingent. A lawyer should be mindful that many persons who desire to employ him may have had little or no experience with fee charges of lawyers, and for this reason he should explain fully to such persons the reasons for the particular fee arrangement he proposes.

EC 2-20 Contingent fee arrangements in civil cases have long been commonly accepted in the United States in proceedings to enforce claims. The historical bases of their acceptance are that (1) they often, and in a variety of circumstances, provide the only practical means by which one having a claim against another can economically afford, finance, and obtain the services of a competent lawyer to prosecute his claim, and (2) a successful prosecution of the claim produces a *res* out of which the fee can be paid. Although a lawyer generally should decline to accept employment on a contingent fee basis by one who is able to pay a reasonable fixed fee, it is not necessarily improper for a lawyer, where justified by the particular circumstances of a case, to enter into a contingent fee contract in a civil case with any client who, after being fully informed of all relevant factors, desires that arrangement. Because of the human relationships involved and the unique character of the proceedings, contingent fee arrangements in domestic relation cases are rarely justified. In administrative agency proceedings contingent fee contracts should be governed by the same consideration as in other civil cases. Public policy properly condemns contingent fee arrangements in criminal cases, largely on the ground that legal services in criminal cases do not produce a *res* with which to pay the fee.

EC 2-21 A lawyer should not accept compensation or any thing of value incident to his employment or services from one other than his client without the knowledge and consent of his client after full disclosure.

EC 2-22 Without the consent of his client, a lawyer should not associate in a particular matter another lawyer outside his firm. A fee may properly be divided between lawyers properly associated if the division is in proportion to the services performed and the responsibility assumed by each lawyer and if the total fee is reasonable.

EC 2-23 A lawyer should be zealous in his efforts to avoid controversies over fees with clients and should attempt to resolve amicably any differences on the subject. He should not sue a client for a fee unless necessary to prevent fraud or gross imposition by the client.

*Financial Ability to Employ Counsel:
Persons Unable to Pay Reasonable Fees*

EC 2-24 A layman whose financial ability is not sufficient to permit payment of any fee cannot obtain legal services, other than in cases where a contingent fee is appropriate, unless the services are provided for him. Even a person of moderate means may be unable to pay a reasonable fee which is large because of the complexity, novelty, or difficulty of the problem or similar factors.

EC 2-25 Historically, the need for legal services of those unable to pay reasonable fees has been met in part by lawyers who donated their services or accepted court appointments on behalf of such individuals. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged. The rendition of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer, but the efforts of individual lawyers are often not enough to meet the need. Thus it has been necessary for the profession to institute additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services, and other related programs have been developed, and others will be developed, by the profession. Every lawyer should support all proper efforts to meet this need for legal services.

Acceptance and Retention of Employment

EC 2-26 A lawyer is under no obligation to act as adviser or advocate for every person who may wish to become his client; but in furtherance of the objective of the bar to make legal services fully

available, a lawyer should not lightly decline proffered employment. The fulfillment of this objective requires acceptance by a lawyer of his share of tendered employment which may be unattractive both to him and the bar generally.

EC 2-27 History is replete with instances of distinguished and sacrificial services by lawyers who have represented unpopular clients and causes. Regardless of his personal feelings, a lawyer should not decline representation because a client or a cause is unpopular or community reaction is adverse.

EC 2-28 The personal preference of a lawyer to avoid adversary alignment against judges, other lawyers, public officials, or influential members of the community does not justify his rejection of tendered employment.

EC 2-29 When a lawyer is appointed by a court or requested by a bar association to undertake representation of a person unable to obtain counsel, whether for financial or other reasons, he should not seek to be excused from undertaking the representation except for compelling reasons. Compelling reasons do not include such factors as the repugnance of the subject matter of the proceeding, the identity or position of a person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merits of the civil case.

EC 2-30 Employment should not be accepted by a lawyer when he is unable to render competent service or when he knows or it is obvious that the person seeking to employ him desires to institute or maintain an action merely for the purpose of harassing or maliciously injuring another. Likewise, a lawyer should decline employment if the intensity of his personal feeling, as distinguished from a community attitude, may impair his effective representation of a prospective client. If a lawyer knows a client has previously obtained counsel, he should not accept employment in the matter unless the other counsel approves or withdraws, or the client terminates the prior employment.

EC 2-31 Full availability of legal counsel requires both that persons be able to obtain counsel and that lawyers who undertake representation complete the work involved. Trial counsel for a convicted defendant should continue to represent his client by advising whether to take an appeal and, if the appeal is prosecuted, by representing him through the appeal unless new counsel is substituted or withdrawal is permitted by the appropriate court.

EC 2-32 A decision by a lawyer to withdraw should be made only on the basis of compelling circumstances, and in a matter pending before a tribunal he must comply with the rules of the tribunal regarding withdrawal. A lawyer should not withdraw without considering carefully and endeavoring to minimize the possible adverse effect on the rights of his client and the possibility of prejudice to his client as a result of his withdrawal. Even when he justifiably withdraws, a lawyer should protect the welfare of his client by giving due notice of his withdrawal, suggesting employment of other counsel, delivering to the client all papers and property to which the client is entitled, cooperating with counsel subsequently employed, and otherwise endeavoring to minimize the possibility of harm. Further, he should refund to the client any compensation not earned during the employment.

[Amended May 6, 1982, effective May 14, 1982; amended November 9, 1978, effective January 1, 1979; adopted December 7, 1971, effective January 1, 1972. Prior: Canons of Professional Ethics, Adopted November 22, 1950, effective January 2, 1951.]

CANON 3

A LAWYER SHOULD ASSIST IN PREVENTING THE UNAUTHORIZED PRACTICE OF LAW

DR 3-101 Aiding Unauthorized Practice of Law.

(A) A lawyer shall not aid a non-lawyer in the unauthorized practice of law.

(B) A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

DR 3-102 Dividing Legal Fees With a Non-Lawyer.

(A) A lawyer or law firm shall not share legal fees with a non-lawyer, except that:

(1) An agreement by a lawyer with his firm, partner, or associate may provide for the payment of money, over a reasonable period of time after his death, to his estate or to one or more specified persons.

(2) A lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer.

(3) A lawyer or law firm may include non-lawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement, providing such plan does not circumvent another disciplinary rule.

DR 3-103 Forming a Partnership With a Non-Lawyer.

(A) A lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law.

ETHICAL CONSIDERATIONS

EC 3-1 The prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence of those who undertake to render legal services. Because of the fiduciary and personal character of the lawyer-client relationship and the inherently complex nature of our legal system, the public can better be assured of the requisite responsibility and competence if the practice of law is confined to those who are subject to the requirements and regulations imposed upon members of the legal profession.

EC 3-2 The sensitive variations in the considerations that bear on legal determinations often make it difficult even for a lawyer to exercise appropriate professional judgment, and it is therefore essential that the personal nature of the relationship of client and lawyer be preserved. Competent professional judgment is the product of a trained familiarity with law and legal processes, a disciplined, analytical approach to legal problems, and a firm ethical commitment.

EC 3-3 A non-lawyer who undertakes to handle legal matters is not governed as to integrity or legal competence by the same rules that govern the conduct of a lawyer. A lawyer is not only subject to that regulation but also is committed to high standards of ethical conduct. The public interest is best served in legal matters by a regulated profession committed to such standards. The Disciplinary Rules protect the public in that they prohibit a lawyer from seeking employment by improper overtures, from acting in cases of divided loyalties, and from submitting to the control of others in the exercise of his judgment. Moreover, a person who entrusts legal matters to a lawyer is protected by the attorney-client privilege and by the duty of the lawyer to hold inviolate the confidences and secrets of his client.

EC 3-4 A layman who seeks legal services often is not in a position to judge whether he will receive proper professional attention. The entrustment of a legal matter may well involve the confidences, the reputation, the property, the freedom, or even the life of the client. Proper protection of members of the public demands that no person be permitted to act in the confidential and demanding capacity of a lawyer unless he is subject to the regulations of the legal profession.

EC 3-5 It is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law. Functionally, the practice of law relates to the rendition of services for others that call for the professional judgment of a lawyer. The essence of the professional judgment of the lawyer is his educated ability to relate the general body and philosophy of law to a specific legal problem of a client; and thus, the public interest will be better served if only lawyers are permitted to act in matters involving professional judgment. Where this professional judgment is not involved, non-lawyers, such as court clerks, police officers, abstracters, and many governmental employees, may engage in occupations that require

a special knowledge of law in certain areas. But the services of a lawyer are essential in the public interest whenever the exercise of professional legal judgment is required.

EC 3-6 A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently.

EC 3-7 The prohibition against a non-lawyer practicing law does not prevent a layman from representing himself, for then he is ordinarily exposing only himself to possible injury. The purpose of the legal profession is to make educated legal representation available to the public; but anyone who does not wish to avail himself of such representation is not required to do so. Even so, the legal profession should help members of the public to recognize legal problems and to understand why it may be unwise for them to act for themselves in matters having legal consequences.

EC 3-8 Since a lawyer should not aid or encourage a layman to practice law, he should not practice law in association with a layman or otherwise share legal fees with a layman. This does not mean, however, that the pecuniary value of the interest of a deceased lawyer in his firm or practice may not be paid to his estate or specified persons such as his widow or heirs. In like manner, profit-sharing retirement plans of a lawyer or law firm which include non-lawyer office employees are not improper. These limited exceptions to the rule against sharing legal fees with laymen are permissible since they do not aid or encourage laymen to practice law.

EC 3-9 Regulation of the practice of law is accomplished principally by the respective states. Authority to engage in the practice of law conferred in any jurisdiction is not per se a grant of the right to practice elsewhere, and it is improper for a lawyer to engage in practice where he is not permitted by law or by court order to do so. However, the demands of business and the mobility of our society pose distinct problems in the regulation of the practice of law by the states. In furtherance of the public interest, the legal profession should discourage regulation that unreasonably imposes territorial limitations upon the right of a lawyer to handle the legal affairs of his client or upon the opportunity of a client to obtain the services of a lawyer of his choice in all matters including the presentation of a contested matter in a tribunal before which the lawyer is not permanently admitted to practice.

[Amended May 6, 1982, effective May 14, 1982; adopted December 7, 1971, effective January 1, 1972. Prior: Canons of Professional Ethics, Adopted November 22, 1950, effective January 2, 1951.]

ADMISSION TO PRACTICE RULES (APR)*Table of Contents*

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**Rule 5 Certificate of results—Admission oath—
Payment of membership fee.**

A. Upon completion of the examination and the receipt of the certificate from the committee of law examiners, the board of governors shall cause each applicant to be notified of the result of the examination and shall recommend to the Supreme Court of the State of Washington the admission or rejection of each applicant who has passed the examination.

B. There shall be no requirement that an applicant or member of the Bar Association be a resident or bona fide resident in the State of Washington. However, any applicant or active member who does not live or maintain an office in the State of Washington must file with the Bar Association the name and address of an agent within this state for the purpose of receiving service of process or any other document required or permitted by statute or court rule to be served or delivered to a resident lawyer. Service or delivery to such agent shall be deemed service upon or delivery to the lawyer.

C. In all cases the oath of attorney must be taken within one year from the date of the examination, except for good cause shown.

D. The recommendation of the board of governors to the court shall be accompanied by the successful candidates' applications for examination and any other documents deemed pertinent by the board. Such recommendation and all other documents and papers forwarded shall be kept by the Clerk of the Supreme Court in a separate file and such file shall not be a public record. The Supreme Court may thereupon examine the recommendation and accompanying papers and make such order in each case as it deems advisable. Upon the request of the court, the board shall forward to the court the examination papers of, and all documents presented in connection with, any registration, whether for "clerkship" or "examination", and all papers in connection with the examination of such applicant.

E. The Supreme Court shall enter an order admitting to practice those applicants it deems qualified, conditioned upon such applicants

(1) taking, and filing with the Clerk of the Supreme Court, the Oath of Attorney as provided herein, and

(2) paying to the Washington State Bar Association its membership fee for the current year.

Upon the entry of such order, the taking and filing of the oath, and payment of said annual membership fee, an applicant shall be enrolled as a member of the bar and shall be entitled to practice law in the State of Washington.

F. The Oath of Attorney must be taken before a court of record in the State of Washington sitting in open court, provided that in the event a successful applicant is outside the State of Washington and the chief justice is satisfied that it is impossible or impractical for him to take the oath below prescribed before a court of record of this state, the chief justice may, upon proper application setting forth all the circumstances designate the person authorized by law to administer oaths, before whom the applicant may appear and take said oath.

G. The oath which all applicants shall take is as follows:

"OATH OF ATTORNEY

State of Washington, County of _____, ss.

I, _____, do solemnly swear:

1. I am fully subject to the laws of the State of Washington and the laws of the United States and will abide by the same.

2. I will support the constitution of the State of Washington and the constitution of the United States.

3. I will abide by the Code of Professional Responsibility approved by the Supreme Court of the State of Washington.

4. I will maintain the respect due to the courts of justice and judicial officers.

5. I will not counsel, or maintain any suit, or proceeding, which shall appear to me to be unjust, or any defense except as I believe it to be honestly debatable under the law, unless it is in defense of a person charged with a public offense. I will employ for the purpose of maintaining the causes confided to me only those means consistent with truth and honor. I will never seek to mislead the judge or jury by any artifice or false statement.

6. I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with the business of my client unless this compensation is from or with the knowledge and approval of the client.

7. I will abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged.

8. I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.

So help me God.

Subscribed and sworn to before me this _____ day of _____, 19__

Judge."

[Amended May 6, 1982, effective May 14, 1982; amended April 26, 1974, effective April 26, 1974; amended December 29, 1970, effective March 10, 1971; amended June 25, 1965, effective July 9, 1965; amended January 29, 1965, effective February 12, 1965. Prior: Amended February 6, 1964; adopted December 2, 1955, effective December 15, 1955.]

Rule 8 Admission for educational purposes. Notwithstanding any provision of any other rule to the contrary, an attorney who has been regularly admitted to practice in another state or the District of Columbia and who is enrolled and in good standing as a post graduate student or faculty member in a program of an approved law school of this state involving clinical work in the courts or in the practice of law which has been approved by the Board of Governors for the purposes of this rule, may, upon application to the Washington State Bar Association, and upon payment of an investigation fee to be established by the Board of Governors, be admitted to the limited practice of law in this state for the period such applicant actively participates in said program and complies with the Code of Professional Responsibility. An applicant hereunder shall establish in the manner specified by the Board of Governors that the applicant:

(1) Satisfies the requirements of Rule 2B(2);

(2) Is of good moral character;

(3) Is admitted to practice in another state or the District of Columbia, and is in good standing as an attorney of such bar;

(4) Is enrolled and in good standing in such an approved program.

Upon approval of such application by the Board, the applicant shall take the oath of attorney and the Board shall recommend to the Supreme Court the admission of such applicant for the purposes herein stated; such oath, together with any other documents the Board deems pertinent, shall be sent to the Supreme Court which shall enter an appropriate order upon the limited admission of such applicant.

Practice of an applicant so admitted shall be limited to the clinical work of the particular approved course of study in which the applicant is enrolled; no charge shall be made for any services so rendered. When such applicant ceases to actively participate in such program the dean of the law school shall immediately notify the Washington State Bar Association and the clerk of the court so that the right of the applicant to practice may be terminated of record. An applicant admitted pursuant to this rule shall be considered an "active member" of the Washington State Bar Association for the purpose of serving as a supervising attorney for legal interns under Rule 9, but shall be an active member for no other purpose. [Amended June 22, 1982, effective July 9, 1982; amended December 29, 1970, effective March 10, 1971; adopted May 20, 1966, effective May 20, 1966.]

Reviser's note: Former Rule 8 captioned "Change of rules—Effect" adopted December 2, 1955, effective December 15, 1955, was abrogated January 29, 1965, effective February 12, 1965. For later rule on this subject, see APR 2 (D) (6).

Rule 9 Legal interns.

A. Admission to Limited Practice as a Legal Intern.

Notwithstanding any provision of any other rule to the contrary, qualified law students, registered law clerks and graduates of approved law schools, upon application and approval in accordance with the requirements set forth in Rule 9B, may be admitted to the status of "legal intern" and may be granted a limited license to engage in the practice of law, as hereinafter provided and not otherwise.

B. Application for Limited License as a Legal Intern—Qualifications—Procedure.

(1) *Qualifications*—The applicant when submitting an application must:

(a) Be a student duly enrolled and in good academic standing at an approved law school with legal studies completed amounting to not less than two-thirds of a prescribed three-year course of study or five-eighths of a prescribed four-year course of study, and have the written approval of the applicant's law school dean or a person designated by such dean; or

(b) Be a registered law clerk in compliance with the provision APR 2(d) with not less than three-fourths of the prescribed four-year course of study completed, and have the written approval of his or her tutor; or

(c) Make the application before the expiration of nine (9) months following graduation from an approved law school, and submit satisfactory evidence thereof to the Washington State Bar Association;

(d) Certify in writing under oath that he or she has read, is familiar with, and will abide by, the Code of Professional Responsibility as adopted by the Supreme Court, and this Rule.

(2) Procedure

(a) The applicant shall submit an application on a form provided by the Washington State Bar Association. Such application shall set forth all of the qualifications of the applicant required in Rule 9B. There shall be no fee for filing such application.

(b) The application shall give the name of, and shall be signed by, the supervising attorney who, in doing so, shall assume the responsibilities of supervising attorney set forth in Rule 9D if the applicant is granted a limited license as a legal intern. The supervising attorney shall be relieved of such responsibilities upon the termination of such limited license or at such earlier time as the supervising attorney or the applicant shall give written notice to the Washington State Bar Association and the Supreme Court of the State of Washington requesting that the supervising attorney be so relieved. In the latter event another active member of the Bar may be substituted as such supervising attorney by giving written notice of such substitution, signed by the applicant and by such other active member, to the Washington State Bar Association and the Supreme Court of the State of Washington.

(c) Upon receipt of the application, the Washington State Bar Association shall examine and evaluate such application and endorse thereon its approval or disapproval and forward the same to the Supreme Court of the State of Washington.

(d) The Supreme Court of the State of Washington shall issue or refuse the issuance of a limited license of a legal intern. The Court's decision shall be forwarded to the Washington State Bar Association, and the applicant shall be informed of the Court's decision.

C. Scope of Practice by Legal Intern Under the Limited License.

(1) A legal intern shall be authorized to engage in the limited practice of law, in civil and criminal matters, as authorized by the provisions of this Rule 9. A legal intern shall be subject to the Code of Professional Responsibility and Disciplinary Rules as adopted by the Supreme Court and to all other laws and rules governing lawyers admitted to the bar of this state, and shall be personally responsible for all services preformed as an intern. Upon recommendation of the Disciplinary Board, a legal intern may be precluded from sitting for the Bar Examination or from being admitted as a member of the Washington State Bar Association within the discretion of the Board of Governors. Any such intern barred from the Bar Examination or from recommendation for admission by the Board of Governors shall have the usual rights of appeal to the State Supreme Court.

(2) A judge may exclude a legal intern from active participation in a case filed with the court in the interest of orderly administration of justice or for the protection of a litigant or witness, and shall thereupon grant a continuance to secure the attendance of the supervising attorney.

(3) No legal intern may receive payment from a client for his or her services; however, nothing contained herein shall prevent a legal intern from being paid for his or her services by the intern's employer or to prevent the employer from making such charges for the service of the legal intern as may otherwise be proper. A legal intern and his or her supervising attorney or an attorney from the same office shall, before the intern undertakes to perform any services for a client, inform the client of the legal intern's status as such.

(4) A legal intern may participate in superior court and Court of Appeals proceedings, including depositions, provided the supervising attorney or another attorney from the same office is present. Ex parte and agreed orders may be presented to the court by a legal intern without the presence of his or her supervising attorney or another attorney from the same office; provided further that an intern may represent the state in juvenile court in misdemeanor and gross misdemeanor cases without in-court supervision after a reasonable period of in-court supervision, which shall not be less than one trial.

(5) Except as otherwise provided in Rule 9(c)(6), in courts of limited jurisdiction, a legal intern, only after participating with his or her supervising lawyer in at least one nonjury case, may try nonjury cases in such courts without the presence of a supervising lawyer; and only after participating with his or her supervising lawyer in at least one jury case, may try jury cases in such courts without the presence of a supervising lawyer.

(6) Either the supervising attorney or an attorney from the same office shall be present in the representation of a defendant in all preliminary criminal hearings.

D. Supervising Attorneys—Qualifications, Responsibilities and Duties.

(1) The supervising attorney shall be an active member of the Washington State Bar Association and shall have been actively engaged in the practice of law in the State of Washington or elsewhere for at least three years at the time the application is filed.

(2) The supervising attorney or another attorney from the same office shall direct, supervise and review all of the work of the legal intern and both shall assume personal professional responsibility for any work undertaken by the legal intern while under his or her supervision. All pleadings, motions, briefs, and other documents prepared by the legal intern shall be reviewed by the supervising attorney or an attorney from the same office as the supervising attorney. When a legal intern signs any correspondence or legal document, the intern's signature shall be followed by the title "legal intern" and, if the document is prepared for presentation to a court or for filing with the clerk thereof, the document shall also be signed by the supervising attorney or an attorney from the same office as the supervising attorney. In any proceeding in which a legal intern appears before the court, the legal intern must advise the court of the intern's status and the name of the intern's supervising attorney.

(3) Supervision shall not require that the supervising attorney be present in the room while the legal intern is advising or negotiating on behalf of a person referred to the intern by the supervising attorney, or while the legal

intern is preparing the necessary pleadings, motions, briefs, or other documents.

(4) No supervising attorney shall have supervision over more than 1 legal intern at any one time; however, in the case of: (a) recognized institutions of legal aid, legal assistance, public defender, and similar programs furnishing legal assistance to indigents, or legal departments of a state, county, or municipality, the supervising attorney may have supervision over 2 legal interns at one time, or (b) a clinical course offered by an accredited law school, approved by its dean and directed by a member of its faculty, and conducted within institutions or legal departments described in part (a) of this subsection or the law school, each full-time clinical supervising attorney may have supervision over 10 legal interns at one time provided a supervising attorney attends all adversarial proceedings conducted by the legal interns.

(5) No attorney shall be authorized to become a supervising attorney if the attorney is subject to pending disciplinary proceedings (following the service of a formal complaint) or if the attorney has ever been censured, reprimanded, suspended or disbarred. No attorney without the express approval of the Board of Governors shall be authorized to become a supervising attorney if the attorney is or within the previous 12 months has been the subject of any complaint received by the Washington State Bar Association which has not been resolved in the attorney's favor.

(6) An attorney currently acting as a supervising attorney may be terminated as a supervising attorney at the discretion of the Board of Governors. When an intern's supervisor is so terminated, the intern shall cease performing any services under this rule and shall cease holding himself or herself out as a legal intern until written notice of a substitute supervising attorney, signed by the intern and by a new and qualified supervising attorney, is given to the Washington State Bar Association and to the Supreme Court of the State of Washington.

(7) The failure of a supervising attorney, or an attorney acting as a supervising attorney, to provide adequate supervision or to comply with the duties set forth in this Rule 9 shall be grounds for disciplinary action pursuant to the Discipline Rules for Attorneys.

(8) For purposes of the attorney-client privilege, an intern shall be considered a subordinate of the attorney providing supervision for the intern.

(9) For purposes of the provisions of this Rule 9D which permit an attorney from the same office as the supervising attorney to sign documents or be present with a legal intern during court appearances, the attorney so acting must be one who meets all of the qualifications for becoming a supervising attorney under this Rule 9.

E. Term of Limited License.

(1) A limited license as a legal intern shall be valid, unless revoked, for a period of 24 consecutive months, provided that a person who fails the Washington state bar examination shall not continue to serve or to be eligible to become a legal intern after the date the results

of the said bar examination are made public, and provided further that a person shall not serve as a legal intern more than 12 months after graduation from law school.

(2) The approval given to a law student by his or her law school dean or the dean's designee or to a clerk by his or her tutor may be withdrawn at any time by mailing notice to that effect to the Clerk of the Supreme Court and to the Washington State Bar Association, and shall be withdrawn if the student ceases to be duly enrolled as a student prior to graduation or ceases to be in good academic standing or if the law clerk ceases to comply with APR 2(d).

(3) A limited license is granted at the sufferance of the Supreme Court of the State of Washington and may be revoked at any time upon the Court's own motion, or upon the motion of the Board of Governors of the Washington State Bar Association, in either case with or without cause.

(4) An intern shall immediately cease performing any services under this rule and shall cease holding himself or herself out as a legal intern: upon termination for any reason of said intern's limited license under this rule; upon the resignation of the intern's supervising attorney; upon the suspension or termination by the Board of Governors of the Washington State Bar Association of the supervising attorney's status as supervising attorney; or upon the withdrawal of approval of the intern pursuant to (E)(2).

(5) Any person applying for permission to take the Washington State Bar examination who has ever had his or her limited license revoked shall disclose that fact on his or her application and explain the reason for revocation, if known. [Amended October 19, 1981, effective November 2, 1981; amended November 20, 1980, effective January 1, 1981; amended November 9, 1978, effective January 1, 1979; amended December 16, 1976, effective December 31, 1976; amended September 26, 1973, effective December 31, 1973; amended February 29, 1972, effective February 29, 1972; amended May 21, 1971, effective May 21, 1971; adopted June 4, 1970, effective June 4, 1970.]

Rule 11.6 Reports and enforcement.

A. Compliance Report. On or before each January 31st hereafter, commencing January 31, 1978, each active member shall file a report with the Bar Association in such form as the Bar Association shall prescribe concerning such member's completion of accredited legal education during the preceding calendar year. If such member has not completed the minimum education requirement for the preceding year, compliance may still be accomplished by making up the deficiency within the first 4 months of the next succeeding calendar year, filing a supplemental report with the Bar Association by May 1 of such year evidencing such compliance in such form as the Bar Association shall prescribe and by paying a special \$50.00 filing fee therefor: Provided, however, that such special filing fee shall be increased by \$100 for each consecutive year in which such member

shall accomplish compliance with the minimum education requirement by making up any deficiency within the next succeeding year as provided above.

B. Delinquency. Any member who has not so complied by May 1 of each year hereafter, commencing with May 1, 1978, may be removed (or conditionally removed) from the roll of active members of the Bar and transferred to inactive status pending such member's compliance with Section A above. To effect such removal the Board shall by written notice to the noncomplying member advise of the pendency of removal proceedings unless within 10 days of receipt of such notice such member shall complete and return to the Board an accompanying form of petition which may be accompanied by affidavit(s) in support of request for extension of time for or exemption from compliance with Section A above or for a ruling by the Board of substantial compliance therewith.

1. Unless such petition be so filed, the Board shall report such fact to the Supreme Court with its recommendations for appropriate action. The Supreme Court shall enter such order or conditional order as it deems appropriate.

2. If such petition be so filed, the Board may, in its discretion, approve the same without hearing, or may enter into agreement on terms with such member as to time and requirements for achieving compliance with the provisions of Section A.

3. If the Board does not so approve such petition or enter into such agreement with terms, the Board shall hold a hearing upon the petition and shall give the member at least 10 days' notice of the time and place thereof. Testimony taken at the hearing shall be under oath and the oath shall be administered by the chairperson of the Board. For good cause shown the Board may rule that the member has substantially complied with these rules for the year in question or, if he or she has not done so, it may grant the member an extension of time within which to comply and may do so upon terms as it may deem appropriate. As to each such application the Board shall enter written findings of fact and an appropriate order, a copy of which shall be mailed forthwith to the member at the address on file with the Bar Association. Any such order shall be final unless within 10 days from the date thereof the member shall file with the Bar Association at its office a written appeal to the Board of Governors of the Bar Association.

4. In its consideration of petitions for relief hereunder, the Board shall consider factors of hardship such as age or disability, or of restricted practice.

C. Appeal to Board of Governors. Any such appeal shall be considered by the Board of Governors at its next regular meeting (unless that meeting takes place less than 5 days following the perfection of the appeal, in which event it shall be the second meeting following thereafter). To perfect such appeal the member shall, at the member's expense, within 15 days of the filing of the notice of such appeal, cause to be transcribed and filed with the Bar Association a narrative report of proceedings in compliance with RAP 9.3. The Board chairperson shall certify that the narrative report of proceedings

contains a fair and accurate report of the occurrences in and evidence introduced in the cause. Upon the filing of any such notice of appeal to the Board of Governors, the Bar Association shall prepare a transcript of all orders, findings, and other documents pertinent to the proceeding, which transcript shall be certified by the Board chairperson. The Board of Governors may require the member to submit his or her argument in writing and it may, but shall not be obligated to, permit the member or his or her counsel to appear in person before it. The Board of Governors may affirm, reverse or modify the ruling of the Board of Continuing Legal Education as it deems appropriate. The decision of the Board of Governors shall be reduced to writing and a copy thereof shall be mailed forthwith to the member at the member's address. The decision of the Board of Governors shall be final, unless within 10 days from the date thereof, the member shall file with the Bar Association at its office a written notice of appeal to the Supreme Court.

May 6, 1982, effective May 14, 1982; adopted November 29, 1976, effective January 1, 1977.]

D. Appeal to the Supreme Court. To perfect such appeal to the Supreme Court, the member shall at the member's expense, if testimony was taken before the Board of Governors, cause to be transcribed and filed with the Bar Association as to proceedings before the Board of Governors, a narrative report of proceedings in compliance with RAP 9.3. The President of the Bar Association shall certify that any such narrative report of proceedings contains a fair and accurate report of the occurrences in and evidence introduced in the cause. The Bar Association shall prepare a transcript of all orders and other documents pertinent to the proceeding before the Board of Governors, which transcript shall be certified by the President of the Bar Association. The Bar Association shall then file promptly with the Clerk of the Supreme Court said narrative report of proceedings and the transcripts pertinent to the proceedings before the Board and the Board of Governors. The matter shall be heard in the Supreme Court on the motion calendar and the provisions of RAP 17.4 and RAP 17.5 shall be applicable thereto.

E. Time. The times set forth in this rule for filing notices of appeal are jurisdictional. The Board of Governors or the Supreme Court, as to appeals pending before each such body respectively, may, for good cause shown:

1. extend the time for the filing or certification of said statement of facts, or
2. dismiss the appeal for failure to prosecute the same diligently.

F. Costs. If the member prevails in his or her appeal before the Board of Governors or in his or her appeal to the Supreme Court, the member shall be awarded costs against the Bar Association in an amount equal to his or her reasonable expenditures for the preparation of the statement or statements of facts.

G. Change of Status. Once an attorney has been transferred to inactive membership status for noncompliance with these Rules, the attorney affected must comply with the then applicable regulations of the Board for transfer from inactive to active status. [Amended

1981 2ND EXTRAORDINARY SESSION LAWS

Chap. Sec.	Rev. Code of Wash.						
1	1 63.28.080	83.100.170	83.100.170	26	Approp.		Approp.
	2 63.28.090	83.100.180	Leg. dir.	27	Approp.	88	Par. veto
	3 63.28.100		83.100.180	28	Par. veto		Approp.
	4 63.28.130	83.100.190	Eff. date		Approp.	89	Par. veto
	5 63.28.140		83.100.190	29	Approp.		Approp.
	6 63.28.150	8	1 82.08.020	30	Approp.	90	Par. veto
	7 Em.		2 82.12.020	31	Approp.		Approp.
	8 Sev.		3 Em.	32	Approp.	91	Approp.
	63.28.921	9	1 82.34.010	33	Approp.	92	Approp.
2	1 43.31.832		2 82.34.020	34	Approp.	93	Approp.
3	1 74.09.532		3 82.34.060	35	Approp.	94	Approp.
	2 74.09.534		4 82.34.080	36	Approp.	95	Approp.
	3 74.09.536		5 Sev.	37	Approp.	96	Approp.
	4 Par. veto		82.34.901	38	Approp.	97	Approp.
	74.09.538		Em.	39	Approp.	98	Approp.
	5 74.09.510	10	1 74.04.750	40	Approp.	99	Approp.
	6 74.09.700		2 74.04.760	41	Par. veto	100	Approp.
	7 74.09.850		3 74.12.035		Approp.	101	Approp.
	8 Sev.		4 74.04.770	42	Par. veto	102	Approp.
	n74.09.532		5 74.04.005		Approp.	103	Approp.
	9 Em.		6 74.09.700	43	Approp.	104	Approp.
4	1 43.85.130		7 Repealer	44	Approp.	105	Approp.
	2 n43.85.130		8 Em.	45	Approp.	106	Approp.
	3 79.64.040	11	1 18.51.350	46	Approp.	107	Approp.
	4 76.12.030		2 18.51.050	47	Approp.	108	Approp.
	5 43.01.050		3 18.51.091	48	Approp.	109	Approp.
	6 43.79.350		4 18.51.230	49	Approp.	110	Approp.
	7 43.79.370		5 18.51.310	50	Approp.	111	Approp.
	8 82.29A.080		6 74.09.120	51	Approp.	112	Approp.
	9 82.29A.090		7 74.09.580	52	Approp.	113	Sev.
	10 82.14.050		8 74.09.610	53	Approp.	114	Em.
	11 82.14.060		9 Repealer	54	Approp.		
	12 Temporary		10 Em.	55	Approp.		
	13 43.41.110	12	1 70.48.350	56	Approp.		
	14 Temporary		2 70.48.355	57	Approp.		
	15 Repealer		3 70.48.360	58	Approp.		
	16 Sev.		4 70.48.050	59	Approp.		
	n43.85.130		5 19.27.060	60	Approp.		
	17 Em.		6 Exp. date	61	Approp.		
5	1 44.07B.350		n70.48.350	62	Approp.		
	2 Em.		7 Em.	63	Approp.		
6	1 80.52.010	13	1 28B.50.873	64	Approp.		
	2 80.52.020		2 Em.	65	Vetoed		
	3 80.52.030		3 Sev.	66	Approp.		
	4 80.52.040		n28B.50.873	67	Approp.		
	5 80.52.050	14	1 Vetoed	68	Approp.		
	6 80.52.060		2 Vetoed	69	Approp.		
	7 80.52.070		3 Approp.	70	Approp.		
	8 80.52.080		4 Approp.	71	Par. veto		
	9 Leg. dir.		5 Approp.		Approp.		
	10 Sev.		6 Approp.	72	Approp.		
	80.52.900		7 Approp.	73	Approp.		
	11 Eff. dates		8 Approp.	74	Approp.		
	80.52.910		9 Approp.	75	Approp.		
7			10 Approp.	76	Par. veto		
	83.100.010		11 Approp.		Approp.		
	83.100.020		12 Approp.	77	Approp.		
	83.100.030		13 Approp.	78	Approp.		
	83.100.040		14 Approp.	79	Approp.		
	83.100.050		15 Par. veto	80	Par. veto		
	83.100.060		Approp.		Approp.		
	83.100.070		16 Approp.	81	Approp.		
	83.100.080		17 Approp.	82	Approp.		
	83.100.090		18 Approp.	83	Par. veto		
	83.100.100		19 Approp.		Approp.		
	83.100.110		20 Approp.	84	Par. veto		
	83.100.120		21 Approp.		Approp.		
	83.100.130		22 Approp.	85	Par. veto		
	83.100.140		23 Vetoed		Approp.		
	83.100.150		24 Par. veto	86	Par. veto		
	83.100.160		Approp.		Approp.		
	Repealer		25 Approp.	87	Par. veto		
	83.100.160						

Parallel Tables: 1982 Regular Session Laws—RCW

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.			
	17	23A.16.040		100	24.03.335		183	19.77.060		50	1	28B.50.090		10	18.39.320		
	18	23A.16.050		101	24.03.340		184	19.77.090		51	1	18.71.030		11	18.39.330		
	19	23A.16.060		102	24.03.345		185	19.77.100		52	1	46.52.120		12	18.39.340		
	20	23A.16.075		103	24.03.350		186	43.07.030		53	1	18.73.110		13	18.39.350		
	21	23A.16.080		104	24.03.370		187	43.07.120		54	1	79.01.096		14	18.39.360		
	22	23A.16.100		105	24.03.375		188	43.07.130		55	1	35.75.060		15	18.39.231		
	23	23A.16.110		106	24.03.380		189	43.07.140			2	36.75.240		16	Leg. dir.		
	24	23A.16.120		107	24.03.385		190	43.07.035			3	36.82.145		17	n18.39.240		
	25	23A.20.040		108	24.03.395		191	43.07.170			4	46.04.071		18	Savings		
	26	23A.20.050		109	24.03.400		192	43.07.180			5	46.61.160			n18.39.240		
	27	23A.20.060		110	24.03.405		193	43.07.190			6	46.61.750		19	Repealer		
	28	23A.20.070		111	24.03.410		194	18.08.130			7	46.61.770		20	18.39.045		
	29	23A.28.010		112	24.03.430		195	26.40.060			8	46.61.758		21	18.39.050		
	30	23A.28.020		113	24.03.435		196	42.17.380		56	1	5.60.060		22	18.39.130		
	31	23A.28.030		114	24.03.440		197	46.64.040			2	Sev.		23	Sev.		
	32	23A.28.040		115	24.03.445		198	47.68.210				n5.60.060			18.39.901		
	33	23A.28.060		116	24.03.450		199	76.40.060		57	1	Approp.		24	Eff. dates		
	34	23A.28.070		117	24.03.915		200	Repealer			2	Approp.			n18.39.240		
	35	23A.28.080		118	24.06.005		201	Repealer			3	Approp.		67	1	31.12A.005	
	36	23A.28.090		119	24.06.020		202	Sev.			4	Approp.			2	31.12A.010	
	37	23A.28.110		120	24.06.025			n43.07.160			5	Em.			3	31.12A.030	
	38	23A.28.120		121	24.06.045		203	Eff. dates		58	1	43.33A.170			4	31.12A.040	
	39	23A.28.125		122	24.06.046			n43.07.160		59	1	Approp.			5	31.12A.050	
	40	23A.28.130		123	24.06.047		36	1	40.10.010		2	Em.			6	31.12A.060	
	41	23A.28.250		124	24.06.048			2	40.10.020		60	1	42.17.405		7	31.12A.090	
	42	23A.32.050		125	24.06.050			3	40.14.010			2	68.16.060		68	1	43.117.040
	43	23A.32.060		126	24.06.055			4	40.14.040			3	68.16.140		69	1	19.105.300
	44	23A.32.070		127	24.06.060			5	40.14.060			4	Em.			2	19.105.310
	45	23A.32.073		128	24.06.170			6	40.14.070		61	1	43.19.537			3	19.105.320
	46	23A.32.075		129	24.06.175		37	1	18.43.110			2	43.19.538			4	19.105.330
	47	23A.32.080		130	24.06.195		38	1	28A.87.120			3	39.24.050			5	19.105.340
	48	23A.32.090		131	24.06.200		39	1	66.04.010			4	39.30.050			6	19.105.350
	49	23A.32.100		132	24.06.205			2	66.28.120		62	1	46.71.010			7	19.105.360
	50	23A.32.140		133	24.06.207			3	Sev.			2	46.71.030			8	19.105.370
	51	23A.32.150		134	24.06.225				n66.04.010			3	46.71.040			9	19.105.380
	52	23A.32.160		135	24.06.230		40	1	29.33.041			4	46.71.043			10	19.105.390
	53	23A.32.170		136	24.06.233			2	29.33.051			5	46.71.047			11	19.105.400
	54	23A.32.072		137	24.06.260			3	29.33.061			6	46.71.050			12	19.105.410
	55	23A.32.077		138	24.06.275			4	29.33.081			7	46.71.060			13	19.105.420
	56	23A.36.050		139	24.06.280			5	29.33.090			8	46.71.065			14	19.105.430
	57	23A.40.010		140	24.06.285			6	29.34.080			9	46.71.070			15	19.105.440
	58	23A.40.020		141	24.06.290			7	29.34.090			10	46.71.080			16	19.105.450
	59	23A.40.030		142	24.06.335			8	43.17.070			11	46.71.090			17	19.105.460
	60	23A.40.035		143	24.06.350			9	43.131.234			12	Approp.			18	19.105.470
	61	23A.40.040		144	24.06.365			10	Em.			13	Approp.			19	19.105.480
	62	23A.40.050		145	24.06.370			11	Sev.		63	1	51.41.010			20	19.105.490
	63	23A.40.060		146	24.06.380				n29.33.041			2	51.41.020			21	19.105.500
	64	23A.40.070		147	24.06.395		41	1	43.82.010			3	51.41.030			22	19.105.510
	65	23A.44.010		148	24.06.415			2	43.19.500			4	51.41.090			23	Constr.
	66	23A.44.020		149	24.06.420			3	Eff. dates			5	51.41.040				19.105.910
	67	23A.44.040		150	24.06.425				n43.82.010			6	51.41.060			24	19.105.520
	68	23A.44.050		151	24.06.430		42	1	87.03.017			7	51.41.100			25	19.105.530
	69	23A.44.060		152	24.06.440			2	Em.			8	51.41.050			26	19.105.540
	70	23A.44.146		153	24.06.445		43	1	50.38.010			9	51.41.070			27	19.105.550
	71	23A.98.030		154	24.06.450			2	50.38.020			10	51.41.080			28	Repealer
	72	24.03.005		155	24.06.455			3	50.38.030			11	51.32.095			29	Sev.
	73	24.03.017		156	24.06.460			4	Leg. dir.			12	51.36.020				19.105.920
	74	24.03.020		157	24.06.475			5	Eff. date			13	51.32.250			30	Approp.
	75	24.03.025		158	24.06.480				50.38.900			14	51.44.040			31	Leg. dir.
	76	24.03.045		159	24.06.485			1	43.170.010			15	51.12.020			32	Eff. date
	77	24.03.046		160	24.06.490		44	2	43.170.020			16	51.12.090				19.105.930
	78	24.03.047		161	24.06.495			3	43.170.030			17	51.12.110		70	1	43.51.540
	79	24.03.048		162	24.06.520			4	43.170.040			18	51.32.050		71	1	81.80.010
	80	24.03.050		163	24.06.900			5	43.170.050			19	51.32.220			2	81.80.400
	81	24.03.055		164	24.06.915			6	43.170.060			20	51.48.010			3	81.80.410
	82	24.03.060		165	24.20.020			7	Exp. date			21	51.48.030			4	81.80.420
	83	24.03.145		166	24.24.010				43.170.900			22	51.52.120			5	Sev.
	84	24.03.150		167	24.24.100			8	Approp.			23	51.52.130				n81.80.010
	85	24.03.170		168	Temporary			9	Leg. dir.			24	Leg. dir.		72	1	2.04.240
	86	24.03.175		169	18.100.120		45	1	24.32.210			25	Approp.			2	2.04.250
	87	24.03.180		170	18.100.140			2	24.06.360			26	Eff. dates		73	1	36.29.020
	88	24.03.183		171	23.86.050			3	23A.32.050				n51.41.090		74	1	43.86A.030
	89	24.03.200		172	23.86.060		46	1	28A.21.086						75	1	53.08.091
	90	24.03.205		173	23.86.070		47	1	16.67.120		64	1	42.17.310		76	1	43.21A.450
	91	24.03.207		174	23.86.090		48	1	43.19.670		65	1	19.16.500			2	Intent
	92	24.03.220		175	23.86.210			2	43.19.675		66	1	18.39.010				n43.21A.450
	93	24.03.240		176	23.86.220			3	43.19.680			2	18.39.240			3	Approp.
	94	24.03.245		177	25.10.010			4	43.19.685			3	18.39.250		77	1	46.20.500
	95	24.03.255		178	25.10.130		49	1	72.02.150			4	18.39.260			2	46.20.505
	96	24.03.300		179	25.10.310			2	72.02.160			5	18.39.270			3	46.20.510
	97	24.03.302		180	15.66.010			3	72.72.050			6	18.39.300			4	46.20.515
	98	24.03.315		181	19.77.030			4	72.72.060			7	18.39.280			5	46.20.520
	99	24.03.330		182	19.77.050			5	72.02.170			8	18.39.290			6	46.37.527
												9	18.39.310				

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Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.
7	46.37.530	3	81.53.281	2	16.52.030	125	1 <i>Temporary</i>	3	42.17.060
8	46.68.065	4	81.53.295	3	16.52.065		2 <i>Approp.</i>	4	42.17.065
9	<i>Approp. Sev.</i>	5	n81.53.261	4	16.52.070	126	1 28A.02.300	5	42.17.067
10	n46.20.500	1	30.42.070	5	16.52.080		2 28A.02.310	6	42.17.080
78	1 70.121.020	2	30.42.120	6	16.52.100		3 <i>Repealer Sev.</i>	7	42.17.090
79	1 41.06.150	3	30.42.140	7	16.52.165		4 <i>Sev.</i>	8	42.17.095
80	1 51.08.180	4	30.42.105	8	16.52.113		n28A.02.300	9	42.17.100
	2 <i>Vetoed</i>	5	30.42.155	9	16.52.117		n28A.02.300	10	42.17.150
81	1 15.65.490	6	30.42.115	10	16.52.185		1 74.08.046	11	42.17.155
	2 15.66.140	7	82.04.315	11	16.52.120	127	2 n74.08.046	12	42.17.160
	3 16.67.090	8	<i>Repealer</i>	12	16.52.130		3 <i>Repealer</i>	13	42.17.170
	4 <i>Vetoed</i>	9	<i>Eff. date</i>	13	<i>Leg. dir.</i>		4 <i>Eff. date</i>	14	42.17.230
82	1 47.17.655	n30.42.070		14	<i>Repealer</i>		n74.08.046	15	42.17.350
	2 47.20.700	96	1 35.49.020	115	1 73.04.110		1 82.01.070	16	42.17.395
	3 <i>Em.</i>	97	1 <i>Temporary</i>		2 <i>Em.</i>	128	2 <i>Eff. date</i>	17	42.17.397
83	1 81.29.020	98	1 39.04.010	116	1 29.79.010		n82.01.070	18	42.17.410
	2 <i>Em.</i>	2	39.04.150		2 29.79.015	129	1 9A.04.080	19	<i>Repealer</i>
84	1 70.44.003	3	43.19.450		3 29.79.030		2 9A.44.120	148	1 43.84.080
	2 70.44.300	4	39.04.020		4 29.79.040		3 9A.64.020	149	1 48.44.250
	3 70.44.310	5	39.08.010		5 29.79.050		4 13.34.030	150	1 3.66.060
	4 70.44.320	99	1 <i>Repealer</i>		6 29.79.060		5 13.34.060	151	1 48.46.020
	5 70.44.350	100	1 4.22.040		7 29.79.070		6 26.44.020		2 48.46.230
	6 70.44.360	2	4.22.920		8 29.79.080		7 26.44.030		3 48.46.240
	7 70.44.370	3	4.22.925		9 29.79.090		8 26.44.056		4 <i>Leg. dir.</i>
	8 70.44.380	4	<i>Sev.</i>		10 29.79.100		9 26.44.060		5 <i>Eff. date</i>
	9 70.44.028	n4.22.040			11 29.79.110		10 26.44.080	152	n48.46.020
	10 70.44.016	5	<i>Em.</i>		12 29.79.120		11 <i>Sev.</i>	153	1 77.12.095
	11 70.44.903	101	1 46.37.190		13 29.79.150		n9A.04.080		1 43.06.010
	12 70.44.007	102	2 <i>Em.</i>		14 29.79.190		1 39.12.020		2 17.24.200
	13 70.44.045	1	87.03.270		15 29.79.200	130	2 39.12.040		3 17.24.210
	14 70.44.050	2	87.03.272		16 29.79.310		1 15.36.055		4 15.09.080
	15 70.44.060	3	<i>Eff. date</i>		17 <i>Repealer</i>	131	2 15.36.150		5 <i>Sev.</i>
	16 70.44.070	n87.03.270		117	1 74.46.020		1 67.16.010		n17.24.200
	17 70.44.080	103	1 35.58.020		2 79.01.525	132	2 67.16.080		6 <i>Approp.</i>
	18 70.44.090	104	1 56.36.040	118	1 74.13.055		3 67.16.090		7 <i>Eff. date</i>
	19 70.44.240	2	57.36.040		2 74.13.080		4 67.16.180	154	n17.24.200
	20 <i>Repealer Sev.</i>	3	57.40.130		3 74.13.031		5 67.16.102	155	1 <i>Approp.</i>
	21 70.44.902	4	86.09.187		4 74.13.109		6 <i>Sev.</i>		1 77.12.610
85	1 66.20.010	5	86.09.331		5 74.15.020		n67.16.010	2	77.12.620
	2 66.24.010	6	86.09.358		6 74.15.030		1 41.14.120	3	77.16.610
	3 66.24.425	7	86.09.361		7 74.15.040	133	1 18.92.021	4	77.12.630
	4 66.24.170	8	86.09.367		8 74.15.050	134	2 18.92.030	156	1 43.51.130
	5 66.24.240	9	86.09.370		9 74.15.060		3 18.92.070	2	43.51.140
	6 66.24.500	10	86.09.184		10 74.15.090		1 41.32.590	3	43.51.150
	7 66.28.010	105	1 57.08.060		11 74.15.100	135	2 41.40.380	4	43.51.160
	8 66.12.140	2	56.08.075		12 74.15.130		3 <i>Repealer</i>	157	1 75.28.275
	9 66.12.150	3	<i>Em.</i>		13 74.15.150		1 28A.48.010	2	<i>Em.</i>
	10 66.24.550	106	1 46.37.005		14 74.15.160	136	2 n28A.48.010	158	1 28A.58.754
	11 66.28.050	107	1 41.04.020		1 70.38.025		3 n28A.48.010	2	28A.41.130
	12 <i>Repealer</i>	2	41.04.255	119	2 70.38.105		4 <i>Approp.</i>	3	28A.41.130
	13 <i>Em.</i>	108	1 70.95.040		3 70.38.111		n28A.48.010	4	28A.58.370
86	1 30.04.375	109	1 49.17.150		4 <i>Em.</i>		5 <i>Eff. date</i>	5	28A.01.020
87	1 70.48.060	2	51.04.110	120	1 74.42.020		n28A.48.010	6	28A.59.180
88	1 80.52.050	3	51.48.130		2 74.42.230		1 19.86.110	7	<i>Repealer</i>
	2 <i>Eff. date</i>	4	51.52.050		3 74.42.600	137	1 9A.56.060	8	<i>Sev.</i>
	n80.52.050	5	51.52.104	121	1 29.30.081	138	1 n2.08.064	n28A.58.754	
89	1 72.33.030	6	51.52.110		2 29.30.091	139	2 2.08.064	159	1 39.35.010
90	1 27.60.010	7	51.52.095		3 29.30.480		3 n2.08.064	2	39.35.020
	2 27.60.020	8	51.52.100		4 <i>Repealer</i>		4 <i>Em.</i>	3	39.35.030
	3 27.60.030	9	51.52.106	122	1 7.04.020		1 9A.36.030	4	39.35.040
	4 27.60.040	10	51.32.040		2 7.04.150	140	1 81.44.020	5	n39.35.010
	5 27.60.050	11	51.32.045	123	1 27.12.010	141	1 82.44.015	6	n39.35.010
	6 27.60.900	1	48.53.010		2 27.12.400	142	1 46.16.310	160	1 28A.04.090
	7 <i>Approp.</i>	2	48.53.020		3 27.12.410		2 <i>Em.</i>	2	28A.03.030
	8 <i>Leg. dir.</i>	3	48.53.030		4 27.12.420	143	1 41.26.425	3	28A.04.100
91	1 35.50.030	4	48.53.040		5 27.12.440	144	2 41.32.762	4	<i>Sev.</i>
	2 35.50.220	5	48.53.050		6 27.12.430		3 41.40.625	n28A.04.090	
	3 35.50.230	6	48.53.060		7 27.12.450	145	1 36.82.130	1	82.41.010
	4 35.50.240	7	48.18.290		8 27.12.190		2 36.86.070	2	82.41.020
	5 35.50.250	8	<i>Leg. dir.</i>		9 27.12.210		3 36.86.080	3	82.41.030
	6 35.50.225	111	1 70.74.020		10 27.12.220		4 43.32.010	4	82.41.040
	7 35.50.260	112	1 10.77.150		11 27.12.222		5 47.48.020	5	82.41.050
	8 35.50.270	2	10.77.190		12 27.12.320		6 36.75.020	6	82.41.060
	9 <i>Repealer Sev.</i>	3	10.77.220		13 27.12.360		7 36.82.110	7	82.41.070
	n35.50.030	113	1 70.132.010		14 27.12.370		1 56.24.180	8	82.41.080
92	1 53.08.120	2	70.132.020		15 27.12.380	146	2 56.24.190	9	82.41.090
	2 53.08.135	3	70.132.030		16 27.12.390		3 56.24.200	10	82.41.100
93	1 38.12.200	4	70.132.040		17 27.18.010		4 57.24.170	11	82.41.110
94	1 81.53.261	5	70.132.050		18 27.18.040		5 57.24.180	12	82.41.120
	2 81.53.271	6	<i>Leg. dir.</i>		19 84.52.052		6 57.24.190	13	82.37.175
		7	<i>Eff. date</i>		20 <i>Leg. dir.</i>	147	1 42.17.040	14	82.38.265
		114	1 9.08.070	124	1 43.101.080		2 42.17.050	15	<i>Leg. dir.</i>
								16	<i>Em.</i>

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162	1	43.24.085	6	69.52.050	10	19.02.100	189	1	34.12.020	7	30.04.230			
163	1	2.10.052	7	69.52.060	11	19.02.110		2	34.12.060	8	30.12.010			
	2	28A.41.412	8	Sev.	12	43.07.200		3	46.20.331	9	30.49.040			
	3	28B.20.402		69.52.900	13	19.02.038		4	46.20.329	10	Leg. dir.			
	4	28B.20.412	9	Leg. dir.	14	19.02.120		5	47.52.135	11	Sev.			
	5	41.26.051	10	Eff. date	15	19.02.130		6	69.50.505		n30.04.550			
	6	41.26.060		69.52.901	16	19.02.920		7	72.33.670	12	Em.			
	7	41.32.015	172	1	70.136.010	17	19.02.800	8	74.20A.055	197	1	75.12.320		
	8	41.40.022		2	70.136.020	18	19.02.890	9	34.12.130	198	1	4.56.110		
	9	41.50.032		3	70.136.040	19	15.13.250	10	34.12.140	199	1	62A.2-316		
	10	43.19.582		4	70.136.030	20	15.13.280	11	34.12.150	200	1	48.66.041		
	11	43.19.570		5	70.136.050	21	15.13.290	12	34.12.160		2	48.66.100		
	12	43.19.600		6	70.136.060	22	15.13.300	13	34.12.042		3	48.66.120		
	13	43.41.130		7	70.136.070	23	15.49.035	14	Leg. dir.		4	Par. veto		
	14	46.08.066		8	Leg. dir.	24	15.49.380	15	Approp.		5	Repealer		
	15	43.21E.905		9	Em.	25	15.49.390	16	Eff. date		5	Em.		
	16	43.22.282	173	1	76.09.070	26	15.58.030		n34.12.020	201	1	10.82.080		
	17	Temporary		2	Eff. date	27	15.58.180	190	1	41.04.360	2	43.20A.055		
	18	43.43.142			n76.09.070	28	15.58.190		2	Em.	3	50.40.050		
	19	Temporary	174	1	82.04.443	29	18.64.011	191	1	28A.57.170	4	18.20.050		
	20	Temporary	175	1	36.58.100	30	18.64.044		2	28A.58.055	5	18.46.030		
	21	43.03.028		2	36.58.110	31	19.32.020		3	28A.58.131	6	18.46.040		
	22	Temporary		3	36.58.120	32	19.32.040		4	28A.58.035	7	50.40.020		
	23	Repealer		4	36.58.130	33	19.32.050		5	28A.58.430	8	51.32.040		
	24	Sev.		5	36.58.140	34	19.91.010		6	28A.58.441	9	70.41.100		
	n2.10.052			6	36.58.150	35	19.91.130		7	51.14.150	10	70.62.220		
	25	Eff. date		7	84.52.052	36	19.91.140		8	51.14.160	11	70.62.230		
	n2.10.052			8	36.58.080	37	19.91.150		9	28A.21.255	12	70.41.110		
164	1	43.19.532		9	Sev.	38	69.12.020		10	28A.58.410	13	70.119.100		
	2	43.78.030			n36.58.100	39	69.12.030		11	28A.59.180	14	71.12.470		
	3	43.78.110	176	1	82.45.100	40	69.12.040		12	28A.59.185	15	71.12.490		
165	1	58.24.010		2	82.45.180	41	69.12.050		13	Eff. date	16	74.04.300		
	2	58.24.020		3	nCh. 82.45	42	69.25.020			n28A.57.170	17	74.04.530		
	3	58.24.030			Digest	43	69.25.050		14	Sev.	18	74.04.700		
	4	58.24.040	177	1	15.53.901	44	69.25.060			n28A.57.170	19	74.09.055		
	5	58.24.050		2	15.53.9014	45	Repealer	192	1	9.94A.030	20	74.20.040		
	6	58.24.060		3	15.53.9018	46	19.02.810		2	9.94A.040	21	74.20A.090		
	7	58.24.070		4	15.53.902	47	Sev.		3	9.94A.050	22	Repealer		
	8	58.24.080		5	15.53.9038	48	19.02.901		4	9.94A.120	23	Em.		
166	1	35.39.060	178	1	Approp.	48	Em.		5	9.94A.140	24	Temporary		
	2	35.39.070		2	Em.	183	1	1.30.010	6	9.94A.150	202	1	43.43.815	
	3	35.39.080	179	1	90.62.010		2	1.30.020	7	9.94A.210	203	1	70.08.070	
	4	35.39.090		2	90.62.060		3	1.30.030	8	9.95.009	204	1	71.24.011	
	5	35.39.100	180	1	Approp.		4	1.30.040	9	9A.20.020		2	71.24.015	
	6	35.39.110	181	1	48.03.010		5	1.30.050	10	9A.20.021		3	71.24.025	
	7	Repealer		2	48.04.020		6	Vetoed	11	9A.44.040		4	71.24.035	
	8	Leg. dir.		3	48.05.340		7	Vetoed	12	9A.44.045		5	71.24.045	
	9	Eff. date		4	48.14.025		8	Vetoed	13	Em.		6	71.24.030	
	n35.39.060			5	48.15.070		9	1.30.060	193	1	70.96.160	7	71.24.100	
167	1	41.60.015		6	48.17.090		10	41.06.083		2	70.96.021	8	71.24.110	
	2	41.60.100		7	48.17.510		11	Leg. dir.		3	70.96.170	9	71.24.155	
	3	41.60.110		8	48.17.540	184	1	7.48A.010		4	70.96.180	10	71.24.160	
	4	41.60.120		9	48.18.110		2	7.48A.020		5	70.96.200	11	71.24.215	
	5	41.60.130		10	48.18A.040		3	7.48A.030		6	70.96.190	12	71.24.220	
	6	41.60.010		11	48.20.182		4	7.48A.040		7	Leg. dir.	13	71.24.240	
	7	41.60.020		12	48.23.180		5	7.48A.050		8	69.54.100	14	71.24.250	
	8	41.60.030		13	48.23.370		6	7.48A.060		9	69.54.120	15	72.01.454	
	9	41.60.041		14	48.24.035		7	Leg. dir.		10	69.54.130	16	74.04.230	
	10	41.60.140		15	48.18A.035		8	9.68.140		11	69.54.110	17	Vetoed	
	11	41.60.050		16	48.18.100		9	Sev.		12	Leg. dir.	18	Vetoed	
	12	41.60.080		17	48.05.310			7.48A.900		13	69.54.010	19	Vetoed	
	13	41.06.280		18	48.30.110		10	Em.		14	69.54.020	20	Vetoed	
	14	Repealer		19	48.23.075		11	Repealer		15	69.54.040	21	Vetoed	
	15	43.131.255		20	48.70.010	185	1	9A.36.090		16	69.54.050	22	Vetoed	
	16	Leg. rev.		21	48.70.020		2	Leg. dir.		17	69.54.060	23	Vetoed	
	17	Approp.		22	48.70.030		3	Em.		18	69.54.070	24	Vetoed	
	18	Sev.		23	48.70.040	186	1	62A.9-203		19	69.54.080	25	Temporary	
	n41.60.015			24	48.70.900		2	62A.9-301		20	69.54.090	26	Repealer	
	19	Leg. dir.		25	Leg. dir.		3	62A.9-312	194	1	20.01.010	27	Leg. dir.	
168	1	48.44.026		26	Eff. date		4	62A.9-313		2	20.01.030	28	Sev.	
169	1	35.21.840			n48.18A.035		5	62A.9-402		3	20.01.210		71.24.901	
	2	35.21.845		27	Repealer		6	62A.9-403		4	20.01.220	205	1	18.11.900
	3	35.21.850		28	Sev.		7	62A.9-404	195	1	28A.31.150	2	18.11.060	
	4	n35.21.840			n48.03.010		8	62A.9-405		2	28A.31.155	3	18.11.080	
170	1	60.28.010	182	1	19.02.010		9	62A.9-406		3	18.71.030	4	43.24.085	
	2	60.28.050		2	19.02.020		10	62A.9-407		4	Sev.	5	18.11.050	
	3	60.28.080		3	19.02.030		11	Approp.			n28A.31.150	6	18.11.070	
	4	Repealer		4	19.02.035		12	Eff. date	196	1	30.04.550	7	18.11.090	
	1	69.50.505		5	19.02.040			n62A.9-203		2	30.04.555	8	18.11.100	
171	2	69.52.010		6	19.02.070	187	1	Temporary		3	30.04.560	9	18.11.110	
	3	69.52.020		7	19.02.080		2	Em.		4	30.04.565	10	18.11.120	
	4	69.52.030		8	19.02.090	188	1	7.06.020		5	30.04.570	11	18.11.130	
	5	69.52.040		9	19.02.085		2	7.06.050		6	30.04.060	12	18.11.140	

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	13	18.11.150		5	48.13.270		15	18.18.130		12	70.77.250
	14	18.11.160		6	48.13.290		16	18.18.140		13	70.77.570
	15	18.11.170		7	Sev.		17	18.18.160		14	70.77.255
	16	18.11.180			n48.12.020		18	18.18.170		15	70.77.260
	17	18.11.190	219	1	53.12.120		19	18.18.190		16	70.77.285
	18	18.11.200	220	1	36.93.100		20	18.18.200		17	70.77.295
	19	18.11.910		2	36.93.170		21	18.18.210		18	70.77.305
	20	Sev.		3	35.02.150		22	18.18.220		19	70.77.311
		18.11.920		4	35A.03.140		23	18.18.260		20	70.77.315
	21	Approp.		5	36.93.115		24	18.18.270		21	70.77.325
	22	Leg. dir.		6	43.21C.220		25	18.18.300		22	70.77.330
	23	Repealer		7	35.03.040		26	Repealer		23	70.77.335
206	1	43.09.270		8	Par. veto	226	1	35.21.180		24	70.77.340
	2	43.09.282			35.03.035		2	35A.12.140		25	70.77.345
	3	43.09.281		9	Sev.		3	36.32.120		26	70.77.355
	4	Eff. date			n36.93.100		4	36.32.020		27	70.77.360
		n43.09.282	221	1	34.04.025		5	36.32.040		28	70.77.365
207	1	72.04A.120		2	34.04.045		6	Vetoed		29	70.77.370
	2	9.94A.270		3	34.04.270		7	Vetoed		30	70.77.375
	3	Approp.		4	34.04.280		8	Eff. date		31	70.77.395
	4	10.64.120		5	34.04.290			n35.21.180		32	70.77.405
208	1	42.40.010		6	34.04.150	227	1	Temporary		33	70.77.415
	2	42.40.020		7	28B.19.030		2	Temporary		34	70.77.420
	3	42.40.030		8	28B.19.033		3	Temporary		35	70.77.425
	4	42.40.040	222	1	n79.01.1331		4	Temporary		36	70.77.430
	5	42.40.050		2	79.01.1331		5	n18.34.130		37	70.77.435
	6	42.40.060		3	79.01.1332		6	18.34.130		38	70.77.455
	7	42.40.070		4	79.01.1333		7	19.09.100		39	70.77.480
	8	Leg. dir.		5	79.01.1334		8	19.09.190		40	70.77.510
	9	n41.06.450		6	79.01.1335		9	19.09.200		41	70.77.515
	10	41.06.450		7	79.01.1336		10	19.09.210		42	70.77.525
	11	41.06.455		8	79.01.1337		11	19.09.230		43	70.77.535
	12	41.06.460		9	79.01.1338		12	19.09.275		44	70.77.555
	13	42.17.295		10	79.01.1339		13	19.09.340		45	Sev.
	14	Sev.		11	79.01.132		14	19.31.100			70.77.911
		42.40.900		12	Exp. date		15	43.24.060		46	Repealer
209	1	47.26.120			n79.01.1331		16	43.24.085		47	Em.
210	1	47.60.145		13	Leg. dir.		17	44.40.030	231	1	28A.58.120
	2	Sev.		14	79.01.126		18	46.85.020		2	Sev.
		n47.60.145		15	Eff. dates		19	46.85.030			n28A.58.120
	3	Em.			n79.01.1331		20	46.85.040	232	1	64.40.010
211	1	82.14.020		16	Temporary		21	46.85.060		2	64.40.020
	2	82.14.080		17	Sev.		22	46.85.100		3	64.40.030
	3	82.14.090			n79.01.1331		23	46.85.270		4	64.40.040
212	1	46.23.010	223	1	43.131.245		24	Repealer		5	Sev.
	2	46.23.020		2	43.131.247		25	Eff. date			64.40.900
	3	46.23.030		3	43.131.249			n18.34.130		6	Leg. dir.
	4	46.23.040		4	43.131.251	228	1	9.95.380			
	5	46.20.311		5	43.131.246		2	9.95.390			
	6	46.23.050		6	43.131.248		3	9.95.400			
	7	Leg. dir.		7	43.131.250		4	9.95.410			
213	1	56.08.020		8	43.131.252		5	n9.95.380			
	2	57.16.010		9	43.131.253		6	Exp. date			
	3	56.08.180		10	43.131.254			n9.95.380			
	4	57.16.140		11	Vetoed		7	Sev.			
214	1	n43.41.200		12	Vetoed			n9.95.380			
	2	43.41.200		13	43.60A.081	229	8	Em.			
	3	43.41.202		14	43.131.227		1	42.36.010			
	4	43.41.204		15	43.131.228		2	42.36.020			
	5	43.41.206		16	43.131.900		3	42.36.030			
	6	43.41.208		17	Vetoed		4	42.36.040			
	7	43.41.210		18	Leg. dir.		5	42.36.050			
	8	43.41.212	224	1	Temporary		6	42.36.060			
	9	Leg. dir.		2	Temporary		7	42.36.070			
215	1	46.12.370		3	Vetoed		8	42.36.080			
216	1	43.80.110		4	Vetoed		9	42.36.090			
	2	39.50.010		5	Repealer		10	42.36.100			
	3	39.50.020		6	71.20.016		11	42.36.110			
	4	39.50.030	225	1	18.18.010		12	Sev.			
	5	39.50.040		2	18.18.020			42.36.900			
	6	39.50.050		3	18.18.085		13	Leg. dir.			
	7	39.50.060		4	18.18.030		14	Em.			
	8	39.50.070		5	18.18.040	230	1	70.77.126			
	9	39.50.900		6	18.18.050		2	70.77.131			
	10	Leg. dir.		7	18.18.065		3	70.77.136			
	11	39.44.030		8	Par. veto		4	70.77.141			
	12	39.44.900			18.18.070		5	70.77.146			
	13	Em.		9	18.18.078		6	70.77.160			
217	1	17.28.100		10	18.18.100		7	70.77.170			
218	1	48.12.020		11	18.18.102		8	70.77.180			
	2	48.13.020		12	18.18.104		9	70.77.210			
	3	48.13.220		13	18.18.108		10	70.77.215			
	4	48.13.240		14	18.18.110		11	70.77.230			

1982 1ST EXTRAORDINARY SESSION LAWS

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
1	1	<i>Special Title 79 Sub. Index</i>			28A.58.098			28 57.32.010			27 79.90.210			99 79.94.140
	2	<i>Special Title 79 Sub. Index</i>		2	41.32.4985			29 57.36.010			28 79.90.220			100 79.94.150
	3	<i>Special Title 79 Sub. Index</i>		3	<i>Sev.</i>			30 57.32.020			29 79.90.230			101 79.94.160
	4	<i>Special Title 79 Sub. Index</i>		4	<i>Em.</i>	n28A.58.098		31 57.32.022			30 79.90.240			102 79.94.170
	5	<i>Special Title 79 Sub. Index</i>		5	<i>Em.</i>			32 57.32.023			31 79.90.250			103 79.94.180
2	1	82.35.050	11	1	43.150.010			33 57.36.030			32 79.90.260			104 79.94.190
	2	82.35.030		2	43.150.020			34 57.40.100			33 79.90.270			105 79.94.200
	3	82.35.040		3	43.150.030			35 57.90.020			34 79.90.280			106 79.94.210
	4	<i>Em.</i>		4	43.150.040			1 50.12.200	18	1	50.12.200			107 79.94.220
3	1	53.36.100		5	43.150.050			2 50.22.010		2	50.22.010			108 79.94.230
	2	84.55.045		6	43.150.060			3 50.22.060		3	50.22.060			109 79.94.240
	3	<i>Eff. date</i>		7	43.150.070			4 50.22.030		4	50.22.030			110 79.94.250
	4	<i>Eff. date</i>		8	43.150.080			5 50.22.050		5	50.22.050			111 79.94.260
	5	<i>Eff. date</i>		9	<i>Approp.</i>			6 50.20.050		6	50.20.050			112 79.94.270
4	1	82.32.030		10	<i>Leg. dir.</i>			7 50.20.118		7	50.20.118			113 79.94.280
	2	82.08.0273	12	1	46.63.110			8 50.32.080		8	50.32.080			114 79.94.290
	3	82.08.0273	13	1	90.58.020			9 50.32.095		9	50.32.095			115 79.94.300
6	1	82.36.020		2	90.58.030			10 50.40.020		10	50.40.020			116 79.94.310
	2	<i>Em.</i>	14	1	46.16.215			11 50.40.050		11	50.40.050			117 79.94.320
7	1	28A.04.030		2	46.63.060			12 74.20A.090		12	74.20A.090			118 79.94.330
	2	28A.04.040		3	46.63.070			13 50.04.145		13	50.04.145			119 79.94.340
	3	<i>Sev.</i>		4	46.63.110			14 50.04.100		14	50.04.100			120 79.94.350
	4	<i>Sev.</i>		5	46.20.270			15 50.24.130		15	50.24.130			121 79.94.360
8	1	7.68.035		6	<i>Sev.</i>			16 50.20.060		16	50.20.060			122 79.94.370
	2	7.68.070		7	<i>Eff. date</i>	n46.16.215		17 50.22.100		17	50.22.100			123 79.94.380
	3	7.68.915		8	<i>Approp.</i>			18 50.22.110		18	50.22.110			124 79.94.390
	4	9.92.060		9	<i>Approp.</i>			19 50.22.120		19	50.22.120			125 79.94.400
	5	9.95.210		10	<i>Approp.</i>			20 50.04.225		20	50.04.225			126 79.94.410
	6	2.56.035	15	1	28B.04.020			21 n50.12.200		21	n50.12.200			127 79.94.420
	7	<i>Approp.</i>		2	28B.04.040			22 <i>Sev.</i>		22	<i>Sev.</i>			128 79.94.430
	8	<i>Approp.</i>		3	28B.04.050			n50.12.200		n50.12.200				129 79.94.440
	9	<i>Eff. dates</i>		4	28B.04.060			23 <i>Eff. dates</i>		23	<i>Eff. dates</i>			130 79.95.010
	10	<i>Intent</i>		5	28B.04.070			n50.22.030		n50.22.030				131 79.95.020
	11	<i>Intent</i>		6	28B.04.080			1 74.09.700	19	1	<i>Par. veto</i>			132 79.95.030
	12	<i>Intent</i>		7	36.18.010			2 74.09.610		2	74.09.700			133 79.95.040
9	1	48.74.010		8	<i>Approp.</i>			3 74.09.035		3	74.09.610			134 79.96.010
	2	48.74.020		9	<i>Repealer</i>			4 74.09.520		4	74.09.035			135 79.96.020
	3	48.74.030		10	<i>Em.</i>			5 74.09.620		5	74.09.520			136 79.96.030
	4	48.74.040		11	<i>Exp. date</i>	n28B.04.020		6 <i>Eff. date</i>		6	74.09.620			137 79.96.040
	5	48.74.050	16	1	19.91.010			n74.09.035		7	<i>Eff. date</i>			138 79.96.050
	6	48.74.060		2	19.91.140			1 51.32.075	20	1	51.32.075			139 79.96.060
	7	48.74.070		3	19.91.150			2 51.32.080		2	51.32.080			140 79.96.070
	8	48.74.080		4	19.91.180			3 51.32.190		3	51.32.190			141 79.96.080
	9	<i>Leg. dir.</i>		5	19.91.910			4 <i>Eff. date</i>		4	51.32.190			142 79.96.090
	10	48.76.010		6	<i>Approp.</i>			n51.32.075		n51.32.075				143 79.96.100
	11	48.76.020	17	1	56.02.055			1 79.90.010	21	1	79.90.010			144 79.96.110
	12	48.76.030		2	56.02.120			2 79.90.015		2	79.90.015			145 79.96.120
	13	48.76.040		3	56.24.070			3 79.90.020		3	79.90.020			146 <i>Leg. dir.</i>
	14	48.76.050		4	56.36.010			4 79.90.025		4	79.90.025			147 79.01.036
	15	48.76.060		5	57.02.050			5 79.90.030		5	79.90.030			148 79.01.038
	16	48.76.070		6	57.02.060			6 79.90.035		6	79.90.035			149 79.01.052
	17	48.76.080		7	57.02.070			7 79.90.040		7	79.90.040			150 79.01.084
	18	48.76.090		8	57.02.010			8 79.90.045		8	79.90.045			151 79.01.088
	19	48.76.100		9	57.04.020			9 79.90.050		9	79.90.050			152 79.01.116
	20	<i>Leg. dir.</i>		10	57.04.030			10 79.90.055		10	79.90.055			153 79.01.120
	21	48.23.410		11	57.04.050			11 79.90.060		11	79.90.060			154 79.01.124
	22	48.23.420		12	57.08.080			12 79.90.065		12	79.90.065			155 79.01.176
	23	48.23.430		13	57.08.090			13 79.90.070		13	79.90.070			156 79.01.184
	24	48.23.440		14	57.12.030			14 79.90.080		14	79.90.080			157 79.01.188
	25	48.23.450		15	57.16.050			15 79.90.090		15	79.90.090			158 79.01.212
	26	48.23.460		16	57.16.060			16 79.90.100		16	79.90.100			159 79.01.216
	27	48.23.470		17	57.16.070			17 79.90.110		17	79.90.110			160 79.01.220
	28	48.23.480		18	57.16.090			18 79.90.120		18	79.90.120			161 79.01.224
	29	48.23.490		19	57.16.110			19 79.90.130		19	79.90.130			162 79.01.228
	30	48.23.500		20	57.20.030			20 79.90.140		20	79.90.140			163 79.01.236
	31	48.23.510		21	57.24.010			21 79.90.150		21	79.90.150			164 79.01.240
	32	48.23.520		22	57.24.020			22 79.90.160		22	79.90.160			165 79.01.292
	33	<i>Leg. dir.</i>		23	57.28.020			23 79.90.170		23	79.90.170			166 79.01.304
	34	48.23.200		24	57.28.060			24 79.90.180		24	79.90.180			167 79.01.312
	35	48.14.015		25	57.28.070			25 79.90.190		25	79.90.190			168 79.01.316
	36	<i>Repealer</i>		26	57.28.090			26 79.90.200		26	79.90.200			169 79.01.320
10	1	<i>Par. veto</i>		27	57.28.100									170 79.01.328

Parallel Tables: 1982 1st Extraordinary Session Laws—RCW

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	171	79.01.340	30	1	2.48.030		42	43.136.040			39.88.915		8	<i>Approp.</i>
	172	79.01.384		2	2.48.035		43	43.136.050		19	<i>Leg. dir.</i>		9	<i>Approp.</i>
	173	79.01.396		3	18.72.050		44	43.136.060	43	1	43.52.250		10	<i>Approp.</i>
	174	79.01.408		4	18.72.055		45	43.136.070		2	43.52.370		11	<i>Approp.</i>
	175	79.01.414		5	18.92.021		46	<i>Leg. dir.</i>		3	43.52.374		12	<i>Approp.</i>
	176	79.01.525		6	<i>Non-op.</i>		47	<i>Sev.</i>		4	<i>Savings</i>		13	<i>Approp.</i>
	177	79.01.740		7	<i>Non-op.</i>			n82.08.020			n43.52.374		14	28B.14G.900
	178	79.44.010		8	<i>Non-op.</i>		48	<i>Eff. dates,</i>		5	43.52.290		15	<i>Intent</i>
	179	79.96.900		9	28B.50.050			<i>Exp. date</i>		6	43.52.373		16	<i>Par. veto</i>
	180	<i>Leg. rev.</i>		10	28B.50.055			n82.08.020		7	43.52.375		17	<i>Approp.</i>
	181	79.96.901		11	41.24.250	36	1	43.88.020		8	43.52.378		18	72.65.080
	182	79.96.902		12	43.38.010		2	43.88.530		9	43.52.385		19	43.83.172
	183	<i>Repealer</i>		13	72.41.020		3	43.88.535		10	42.30.020		20	<i>Temporary</i>
	184	<i>Sev.</i>		14	72.41.025	37	1	28B.15.012		11	n43.52.374		21	<i>Repealer</i>
		79.96.903		15	72.42.020		2	28B.15.013			<i>Em.</i>		22	<i>Em.</i>
	185	<i>Em.</i>		16	72.42.025		3	28B.15.014		12	<i>Em.</i>		23	<i>Sev.</i>
		79.96.904		17	<i>Contingency</i>		4	28B.15.015	44	1	43.52.600			n28C.51.010
	186	<i>Eff. date</i>		18	<i>Em.</i>		5	<i>Repealer</i>		2	43.52.603		49	1 <i>Intent</i>
		79.96.905	31	1	79.01.770		6	28B.10.215		3	43.52.606			n35.21.710
22	1	67.38.010	32	1	40.04.040		7	28B.10.220		4	43.52.609		1	35.21.860
	2	67.38.020		2	40.04.090		8	28B.15.520		5	43.52.612		2	35.21.865
	3	67.38.030		3	44.20.030		9	28B.15.740		6	43.52.615		3	35.21.870
	4	67.38.040		4	44.20.050		10	28B.15.502		7	43.52.618		4	82.02.020
	5	67.38.050		5	40.04.035		11	28B.15.100		8	<i>Exp. date</i>		5	<i>Constr.</i>
	6	67.38.060		6	1.08.060		12	28B.15.031			43.52.621		6	n35.21.710
	7	67.38.070		7	34.04.050		13	28B.15.820		9	<i>Leg. dir.</i>			35.21.710
	8	67.38.080		8	<i>Repealer</i>		14	28B.15.825		10	<i>Sev.</i>		7	35.21.711
	9	67.38.090	33	1	nTitle 28A		15	28B.15.067			n43.52.621		8	35.21.711
	10	67.38.100			<i>Digest</i>		16	28B.15.070		11	<i>Em.</i>		9	35.21.705
	11	67.38.110		2	nTitle 28A		17	28B.15.076	45	1	43.19.185		10	<i>Temporary</i>
	12	67.38.120			<i>digest</i>		18	28B.15.202		46	84.41.030		11	82.46.010
	13	67.38.130		3	nTitle 28A		19	28B.15.402		2	84.41.041		12	82.46.020
	14	67.38.140			<i>Digest</i>		20	41.04.005		3	84.41.090		13	82.46.030
	15	67.38.150		4	<i>Approp.</i>		21	n28B.15.012		4	36.21.080		14	82.46.040
	16	67.38.160			nTitle 28A		22	<i>Approp.</i>		5	84.40.040		15	82.46.050
	17	84.52.052			<i>Digest</i>			n28B.15.012		6	82.03.130		16	82.46.060
	18	<i>Leg. dir.</i>		5	<i>Sev.</i>		23	<i>Sev.</i>		7	84.48.075		17	82.14.030
	19	67.38.900			nTitle 28A			n28B.15.012		8	82.03.140		18	82.14.040
	20	35.21.285			<i>Digest</i>		24	<i>Eff. dates</i>		9	82.03.180		19	82.14.035
	21	<i>Sev.</i>		6	<i>Em.</i>			n28B.15.012		10	84.40.025		20	82.44.150
23	1	67.38.905	34	1	41.05.025		38	1 39.12.070		11	84.08.060		21	82.14.200
	2	<i>Approp.</i>		2	41.05.050		2	<i>Approp.</i>		12	<i>Em.</i>		22	82.14.210
	3	<i>Temporary</i>	35	1	82.08.020		3	<i>Em.</i>		47	9.41.025		23	n35.21.710
	4	43.83H.172		2	82.04.2901		39	1 49.04.075		2	9.41.190		24	<i>Leg. dir.</i>
	5	<i>Em.</i>		3	82.08.150		2	49.04.010		3	9.41.050		25	<i>Eff. date</i>
24	1	28A.41.162		4	82.08.160		3	<i>Approp.</i>		4	9.41.280			n35.21.710
	2	28A.41.520		5	82.16.020		4	<i>Em.</i>		5	9.92.010		50	1 <i>Index</i>
	3	28A.41.525		6	82.16.030		40	1 43.160.010		6	9.92.020		2	<i>Approp.</i>
	4	n28A.41.520		7	82.20.010		2	43.160.020		7	9.92.030		3	<i>Approp.</i>
	5	<i>Repealer</i>		8	82.24.020		3	43.160.030		8	9.92.060		4	<i>Approp.</i>
	6	<i>Eff. date</i>		9	82.26.020		4	43.160.040		9	9.92.064		5	<i>Approp.</i>
		n28A.41.162		10	82.27.020		5	43.160.050		10	9.95.210		6	<i>Approp.</i>
	7	<i>Sev.</i>		11	82.29A.030		6	43.160.060		11	9.95.230		7	<i>Approp.</i>
		n28A.41.162		12	82.44.110		7	43.160.070		12	9A.20.030		8	<i>Approp.</i>
25	1	82.42.010		13	82.44.150		8	43.160.080		13	9A.52.095		9	<i>Approp.</i>
	2	82.42.020		14	82.45.060		9	43.160.090		14	9A.52.100		10	<i>Approp.</i>
	3	82.42.025		15	48.14.020		10	<i>Exp. date</i>		15	9A.56.040		11	<i>Approp.</i>
	4	82.42.030		16	41.16.050			43.160.900		16	9A.72.090		12	<i>Approp.</i>
	5	82.42.040		17	41.24.030		11	<i>Sev.</i>		17	9A.72.100		13	<i>Approp.</i>
	6	82.42.070		18	54.28.020			43.160.901		18	9A.72.110		14	<i>Approp.</i>
	7	82.42.080		19	54.28.025		12	<i>Leg. dir.</i>		19	9A.72.120		15	<i>Vetoed</i>
	8	82.42.090		20	54.28.040		41	1 43.38.010		20	9A.76.050		16	<i>Vetoed</i>
	9	82.42.110		21	54.28.050		2	43.38.020		21	9A.76.070		17	<i>Approp.</i>
	10	<i>Approp.</i>		22	54.28.055		3	19.10.240		22	9A.76.080		18	<i>Approp.</i>
	11	<i>Sev.</i>		23	66.24.210		4	<i>Repealer</i>		23	9A.76.110		19	<i>Approp.</i>
		n82.42.010		24	66.24.290		42	1 39.88.905		24	9A.76.120		20	<i>Approp.</i>
	12	<i>Eff. date</i>		25	<i>Vetoed</i>		2	39.88.010		25	46.61.024		21	<i>Approp.</i>
		n82.42.010		26	82.44.020		3	39.88.020		26	10.05.010		22	<i>Approp.</i>
26	1	66.28.150		27	82.32.045		4	39.88.030		27	46.61.515		23	<i>Approp.</i>
	2	66.28.040		28	82.08.0292		5	39.88.040		28	<i>Repealer</i>		24	<i>Approp.</i>
	3	<i>Vetoed</i>		29	82.12.0292		6	39.88.050		29	<i>Eff. date</i>		25	<i>Approp.</i>
27	1	67.34.010		30	<i>Repealer</i>		7	39.88.060			n7.68.035		26	<i>Approp.</i>
	2	67.34.020		31	82.02.030		8	39.88.070		30	<i>Vetoed</i>		27	<i>Approp.</i>
	3	67.34.900		32	<i>Temporary</i>		9	39.88.080		31	<i>Sev.</i>		28	<i>Approp.</i>
	4	67.34.905		33	82.08.0293		10	39.88.090			n9.41.025		29	<i>Approp.</i>
	5	<i>Leg. dir.</i>		34	82.12.0293		11	39.88.100		32	<i>Em.</i>		30	<i>Approp.</i>
28	1	84.48.080		35	82.08.037		12	84.55.080		48	1 28C.51.010		31	<i>Approp.</i>
	2	84.55.070		36	82.12.037		13	39.88.110		2	<i>Approp.</i>		32	<i>Approp.</i>
	3	<i>Sev.</i>		37	82.08.100		14	39.88.120		3	<i>Approp.</i>		33	<i>Approp.</i>
		n84.48.080		38	82.12.070		15	39.88.130		4	<i>Repealer</i>		34	<i>Approp.</i>
	4	<i>Em.</i>		39	43.136.010		16	39.88.900		5	<i>Temporary</i>		35	<i>Approp.</i>
29	1	<i>Temporary</i>		40	43.136.020		17	39.88.910		6	<i>Approp.</i>		36	<i>Approp.</i>
	2	<i>Em.</i>		41	43.136.030		18	<i>Sev.</i>		7	<i>Approp.</i>		37	<i>Approp.</i>

Parallel Tables: 1982 1st Extraordinary Session Laws—RCW

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	38	<i>Approp.</i>		4	<i>Savings</i>		32	<i>Sev.</i>
	39	<i>Approp.</i>			n41.04.345			n41.06.020
	40	<i>Approp.</i>		5	<i>Eff. date</i>	54	1	<i>Temporary</i>
	41	<i>Approp.</i>			n41.04.345		2	<i>Temporary</i>
	42	<i>Approp.</i>		6	<i>Sev.</i>		3	<i>Temporary</i>
	43	<i>Par. veto</i>			n41.04.345		4	<i>Approp.</i>
		<i>Approp.</i>	52	1	2.10.180		5	<i>Leg. dir.</i>
	44	<i>Approp.</i>		2	2.12.010		6	<i>Temporary</i>
	45	<i>Approp.</i>		3	2.12.020		7	<i>Temporary</i>
	46	<i>Approp.</i>		4	2.12.050		8	<i>Temporary</i>
	47	<i>Approp.</i>		5	41.26.540		9	<i>Leg. dir.</i>
	48	<i>Approp.</i>		6	41.32.010		10	<i>Temporary</i>
	49	<i>Vetoed</i>		7	41.32.030		11	<i>Leg. dir.</i>
	50	<i>Approp.</i>		8	41.32.380		12	<i>Temporary</i>
	51	<i>Approp.</i>		9	41.32.401		13	<i>Leg. dir.</i>
	52	<i>Approp.</i>		10	<i>Temporary</i>		14	<i>Vetoed</i>
	53	<i>Approp.</i>		11	41.32.405		15	<i>Vetoed</i>
	54	<i>Approp.</i>		12	41.32.410		16	<i>Par. veto</i>
	55	<i>Approp.</i>		13	41.32.460			<i>Temporary</i>
	56	<i>Approp.</i>		14	41.32.4943		17	<i>Temporary</i>
	57	<i>Vetoed</i>		15	41.32.510		18	<i>Sev.</i>
	58	<i>Approp.</i>		16	41.32.567		19	<i>Em.</i>
	59	<i>Approp.</i>		17	41.32.820	55	1	76.04.360
	60	<i>Approp.</i>		18	41.40.100		2	76.04.515
	61	<i>Approp.</i>		19	41.40.120			
	62	<i>Approp.</i>		20	41.40.150			
	63	<i>Approp.</i>		21	41.40.180			
	64	<i>Approp.</i>		22	41.40.370			
	65	<i>Approp.</i>		23	41.40.730			
	66	<i>Approp.</i>		24	43.43.120			
	67	<i>Approp.</i>		25	43.43.230			
	68	<i>Approp.</i>		26	43.43.250			
	69	<i>Approp.</i>		27	43.43.260			
	70	<i>Approp.</i>		28	43.43.270			
	71	<i>Approp.</i>		29	43.43.280			
	72	<i>Approp.</i>		30	43.43.290			
	73	<i>Approp.</i>		31	43.43.310			
	74	<i>Approp.</i>		32	2.12.090			
	75	<i>Approp.</i>		33	41.50.140			
	76	<i>Approp.</i>		34	41.40.187			
	77	<i>Approp.</i>		35	<i>Temporary</i>			
	78	<i>Approp.</i>		36	<i>Repealer</i>			
	79	<i>Approp.</i>		37	<i>Eff. dates</i>			
	80	<i>Approp.</i>			n41.32.401			
	81	<i>Approp.</i>	53	1	41.06.020			
	82	<i>Approp.</i>		2	41.06.070			
	83	<i>Temporary</i>		3	41.06.130			
	84	<i>Approp.</i>		4	41.06.150			
	85	<i>Approp.</i>		5	41.06.169			
	86	<i>Approp.</i>		6	<i>Par. veto</i>			
	87	<i>Approp.</i>			41.06.175			
	88	<i>Approp.</i>		7	<i>Par. veto</i>			
	89	<i>Approp.</i>			41.06.205			
	90	<i>Approp.</i>		8	41.06.185			
	91	<i>Approp.</i>		9	<i>Par. veto</i>			
	92	<i>Approp.</i>			41.06.195			
	93	<i>Approp.</i>		10	41.06.215			
	94	<i>Approp.</i>		11	28B.10.646			
	95	<i>Approp.</i>		12	<i>Par. veto</i>			
	96	<i>Approp.</i>			28B.10.644			
	97	<i>Approp.</i>		13	28B.10.645			
	98	<i>Approp.</i>		14	28B.16.020			
	99	<i>Approp.</i>		15	28B.16.040			
	100	<i>Approp.</i>		16	28B.16.100			
	101	<i>Approp.</i>		17	28B.16.105			
	102	<i>Approp.</i>		18	<i>Par. veto</i>			
	103	<i>Temporary</i>			28B.16.250			
	104	<i>Approp.</i>		19	28B.16.101			
	105	<i>Approp.</i>		20	<i>Par. veto</i>			
	106	<i>Approp.</i>			28B.16.280			
	107	<i>Approp.</i>		21	28B.16.260			
	108	<i>Approp.</i>		22	<i>Par. veto</i>			
	109	<i>Approp.</i>			28B.16.270			
	110	<i>Approp.</i>		23	28B.16.290			
	111	<i>Approp.</i>		24	28B.50.030			
	112	<i>Approp.</i>		25	<i>Par. veto</i>			
	113	<i>Approp.</i>			28B.50.830			
	114	<i>Approp.</i>		26	28B.50.840			
	115	<i>Sev.</i>		27	28B.80.250			
	116	<i>Em.</i>		28	28B.80.260			
51	1	41.04.345		29	28B.80.270			
	2	43.01.040		30	<i>Vetoed</i>			
	3	43.01.041		31	<i>Repealer</i>			

1982 2ND EXTRAORDINARY SESSION LAWS

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
1	1	74.09.610						
	2	<i>Em.</i>						
2	1	<i>Repealer</i>	10	1	<i>Eff. date</i> n82.16.010		68	<i>Approp.</i>
	2	72.13.091		2	n48.14.020		69	<i>Approp.</i>
	3	<i>Em.</i>		3	<i>Em.</i>		70	<i>Approp.</i>
3	1	82.08.0292	11	1	<i>Approp.</i>		71	<i>Approp.</i>
	2	82.12.0292		2	<i>Approp.</i>		72	<i>Approp.</i>
	3	<i>Eff. date</i> n82.08.0292		3	<i>Approp.</i>		73	<i>Approp.</i>
4	1	84.33.030		4	<i>Approp.</i>		74	<i>Approp.</i>
	2	84.33.071		5	<i>Approp.</i>		75	<i>Approp.</i>
	3	84.33.073		6	<i>Approp.</i>		76	<i>Approp.</i>
	4	<i>Eff. date</i> n84.33.030		7	<i>Approp.</i>		77	<i>Approp.</i>
5	1	82.16.020		8	<i>Approp.</i>		78	<i>Approp.</i>
	2	<i>Eff. date</i> n82.16.020		9	<i>Approp.</i>		79	<i>Approp.</i>
6	1	43.31A.160		10	<i>Approp.</i>		80	<i>Approp.</i>
	2	n43.31A.160		11	<i>Approp.</i>		81	<i>Approp.</i>
7	1	67.70.010		12	<i>Approp.</i>		82	<i>Approp.</i>
	2	67.70.020		13	<i>Approp.</i>		83	<i>Approp.</i>
	3	67.70.030		14	<i>Approp.</i>		84	<i>Approp.</i>
	4	67.70.040		15	<i>Approp.</i>		85	<i>Approp.</i>
	5	67.70.050		16	<i>Approp.</i>		86	<i>Approp.</i>
	6	67.70.060		17	<i>Approp.</i>		87	<i>Approp.</i>
	7	67.70.070		18	<i>Approp.</i>		88	<i>Approp.</i>
	8	67.70.080		19	<i>Approp.</i>		89	<i>Approp.</i>
	9	67.70.090		20	<i>Approp.</i>		90	<i>Approp.</i>
	10	67.70.100		21	<i>Approp.</i>		91	<i>Temporary</i>
	11	67.70.110		22	<i>Approp.</i>		92	<i>Sev.</i>
	12	67.70.120		23	<i>Approp.</i>		93	<i>Em.</i>
	13	67.70.130		24	<i>Approp.</i>	12	1	82.04.442
	14	67.70.140		25	<i>Approp.</i>	13	1	82.04.260
	15	67.70.150		26	<i>Approp.</i>		2	<i>Sev.</i>
	16	67.70.160		27	<i>Approp.</i>			n82.04.260
	17	67.70.170		28	<i>Approp.</i>		3	<i>Eff. date</i> n82.04.260
	18	67.70.180		29	<i>Approp.</i>	14	1	82.02.030
	19	67.70.190		30	<i>Approp.</i>		2	82.44.020
	20	67.70.200		31	<i>Approp.</i>		3	<i>Eff. date</i> n82.02.030
	21	67.70.210		32	<i>Approp.</i>	15	1	43.88.110
	22	67.70.220		33	<i>Approp.</i>		2	43.88.112
	23	67.70.230		34	<i>Approp.</i>		3	43.88.113
	24	67.70.240		35	<i>Approp.</i>		4	<i>Repealer</i>
	25	67.70.250		36	<i>Approp.</i>		5	<i>Sev.</i>
	26	67.70.260		37	<i>Approp.</i>			n43.88.110
	27	67.70.270		38	<i>Approp.</i>		6	<i>Em.</i>
	28	67.70.280		39	<i>Approp.</i>			
	29	67.70.290		40	<i>Approp.</i>			
	30	67.70.300		41	<i>Approp.</i>			
	31	67.70.310		42	<i>Approp.</i>			
	32	67.70.320		43	<i>Approp.</i>			
	33	67.70.330		44	<i>Approp.</i>			
	34	<i>Exp. date</i> 67.70.900		45	<i>Approp.</i>			
	35	<i>Constr.</i> 67.70.902		46	<i>Approp.</i>			
	36	<i>Approp.</i>		47	<i>Approp.</i>			
	37	<i>Approp.</i>		48	<i>Approp.</i>			
	38	<i>Leg. dir.</i>		49	<i>Approp.</i>			
	39	9.46.291		50	<i>Approp.</i>			
	40	<i>Sev.</i> 67.70.903		51	<i>Approp.</i>			
	41	<i>Em.</i>		52	<i>Approp.</i>			
8	1	79.16.180		53	<i>Approp.</i>			
	2	79.92.110		54	<i>Approp.</i>			
	3	<i>Eff. date</i> n79.92.110		55	<i>Approp.</i>			
	4	79.24.580		56	<i>Approp.</i>			
	5	79.24.638		57	<i>Approp.</i>			
9	1	82.16.010		58	<i>Approp.</i>			
	2	82.04.120		59	<i>Approp.</i>			
	3	82.16.050		60	<i>Approp.</i>			
				61	<i>Approp.</i>			
				62	<i>Approp.</i>			
				63	<i>Approp.</i>			
				64	<i>Approp.</i>			
				65	<i>Approp.</i>			
				66	<i>Approp.</i>			
				67	<i>Approp.</i>			

DISPOSITION OF FORMER RCW SECTIONS

Title 2 COURTS OF RECORD

Chapter 2.10 JUDICIAL RETIREMENT SYSTEM

2.10.050 Retirement board—General powers and duties—Administration of system. [1971 ex.s. c 267 § 5.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

2.10.060 Retirement board—Members—Terms—Vacancies—Officers. [1971 ex.s. c 267 § 6.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Title 9 CRIMES AND PUNISHMENTS

Chapter 9.08 ANIMALS, CRIMES RELATING TO

9.08.060 Dogs—Taking, concealing, injuring, killing, etc.—Penalty. [1972 ex.s. c 114 § 1.] Repealed by 1982 c 114 § 14. Later enactment, see RCW 9.08.070.

Chapter 9.41 FIREARMS AND DANGEROUS WEAPONS

9.41.025 Committing crime when armed—Penalties—"Inherently dangerous" defined—Resisting arrest. [1981 c 258 § 1; 1969 ex.s. c 175 § 1.] Repealed by 1981 c 137 § 38; and repealed by 1982 c 10 § 17, both effective July 1, 1984.

Chapter 9.68 OBSCENITY AND PORNOGRAPHY

9.68.010 Obscene literature, shows, etc.—Exception. [1969 c 92 § 1; 1961 c 146 § 1; 1959 c 260 § 1; 1909 c 249 § 207; 1891 c 69 § 24; 1886 p 122 § 1; Code 1881 § 850; 1873 p 210 § 130; 1869 p 226 § 124; 1854 p 96 § 118; RRS § 2459.] Repealed by 1982 c 184 § 11.

9.68.020 Prohibited publications. [1909 c 249 § 209; RRS § 2461.] Repealed by 1982 c 184 § 11.

Title 9A WASHINGTON CRIMINAL CODE

Chapter 9A.32 HOMICIDE

9A.32.047 Murder in the first degree—Life imprisonment, when. [1981 c 136 § 56; 1977 ex.s. c 206 § 6; 1975-'76 2nd ex.s. c 9 § 3 (Initiative Measure No. 316 § 3).] Repealed by 1981 c 138 § 24; and repealed by 1982 c 10 § 18.

Title 10 CRIMINAL PROCEDURE

Chapter 10.43 FORMER ACQUITTAL OR CONVICTION

10.43.010 Dismissal, when a bar. [1909 c 249 § 63; Code 1881 § 77; RRS § 2315.] Repealed by 1982 1st ex.s. c 47 § 28.

Title 18 BUSINESSES AND PROFESSIONS

Chapter 18.11 AUCTIONEERS

18.11.010 Records. [1890 p 458 § 1; RRS § 5848.] Repealed by 1982 c 205 § 23.

18.11.020 Inspection—Information. [1890 p 458 § 2; RRS § 5849.] Repealed by 1982 c 205 § 23.

18.11.030 Violation—Penalties. [1890 p 458 § 3; RRS § 5850.] Repealed by 1982 c 205 § 23.

Chapter 18.18 COSMETOLOGY

18.18.080 Applications—Forms—Requisites—Renewals. [1965 ex.s. c 3 § 5; 1937 c 215 § 9; RRS § 8278-9. Prior: 1927 c 281 § 6.] Repealed by 1982 c 225 § 26.

Chapter 18.22 PODIATRY

18.22.070 Examination. [1973 c 77 § 7; 1955 c 149 § 5. Prior: (i) 1935 c 48 § 1, part; 1917 c 38 § 4, part; RRS § 10077, part. (ii) 1917 c 38 § 8; RRS § 10081.] Repealed by 1982 c 21 § 21. Later enactments, see RCW 18.22.081 and 18.22.083.

18.22.140 Unprofessional conduct—Penalty. [1973 c 77 § 12; 1955 c 149 § 8. Prior: 1917 c 38 § 13, part; RRS § 10086, part.] Repealed by 1982 c 21 § 21. Later enactment, see RCW 18.22.151.

18.22.150 Revocation or suspension of license—Grounds for. [1973 c 77 § 13; 1955 c 149 § 9. Prior: (i) 1917 c 38 § 13, part; RRS § 10086, part. (ii) 1921 c 120 § 8; RRS § 10095.] Repealed by 1982 c 21 § 21. Later enactments, see RCW 18.22.141 and 18.22.151.

18.22.160 Refusal, revocation or suspension of license—Procedure. [1973 c 77 § 14; 1957 c 52 § 17. Prior: 1917 c 38 § 14, part; RRS § 10087, part.] Repealed by 1982 c 21 § 21.

18.22.170 Refusal, revocation or suspension of license—Appeal from director's order. [1917 c 38 § 15; RRS § 10088.] Repealed by 1982 c 21 § 21.

18.22.200 Unlawful practices. [1973 c 77 § 16; 1917 c 38 § 16; RRS § 10089.] Repealed by 1982 c 21 § 21. Later enactment, see RCW 18.22.151.

Chapter 18.52A NURSING ASSISTANTS—NURSING HOMES

18.52A.070 Rate adjustments to defray costs. [1979 c 114 § 7.] Repealed by 1981 2nd ex.s. c 11 § 9.

Title 19 BUSINESS REGULATIONS— MISCELLANEOUS

Chapter 19.02 BUSINESS REGISTRATION AND LICENSING SYSTEM

19.02.060 Continuation of pilot program for grocery stores under chapter 43.31 RCW. [1977 ex.s. c 319 § 6.] Repealed by 1982 c 182 § 45.

Chapter 19.09 CHARITABLE SOLICITATIONS

19.09.040 Organization ceasing to be exempt—Registration. [1973 1st ex.s. c 13 § 4.] Repealed by 1982 c 227 § 24.

19.09.060 Registration--Required. [1973 1st ex.s. c 13 § 6.] Repealed by 1982 c 227 § 24.

19.09.070 Application for registration--Filing--Contents--Requirements. [1977 ex.s. c 222 § 3; 1973 1st ex.s. c 13 § 7.] Repealed by 1982 c 227 § 24.

19.09.080 Registration statement--Signing--Duration--Notice of changes. [1977 ex.s. c 222 § 4; 1973 1st ex.s. c 13 § 8.] Repealed by 1982 c 227 § 24.

19.09.090 Subsidiary organizations. [1977 ex.s. c 222 § 5; 1973 1st ex.s. c 13 § 9.] Repealed by 1982 c 227 § 24.

19.09.110 Registration or rejection--Order--Procedure. [1977 ex.s. c 222 § 7; 1973 1st ex.s. c 13 § 11.] Repealed by 1982 c 227 § 24.

19.09.140 Registration to be kept current--Amendments. [1973 1st ex.s. c 13 § 14.] Repealed by 1982 c 227 § 24.

19.09.150 Register. [1973 1st ex.s. c 13 § 15.] Repealed by 1982 c 227 § 24.

19.09.160 Registration not endorsement. [1973 1st ex.s. c 13 § 16.] Repealed by 1982 c 227 § 24.

19.09.170 Registration and information public records. [1973 1st ex.s. c 13 § 17.] Repealed by 1982 c 227 § 24.

19.09.180 Reports on charitable activities. [1977 ex.s. c 222 § 8; 1973 1st ex.s. c 13 § 18.] Repealed by 1982 c 227 § 24.

19.09.220 Suspension of registration--Failure to file financial statement or report--Examination. [1977 ex.s. c 222 § 11; 1973 1st ex.s. c 13 § 22.] Repealed by 1982 c 227 § 24.

19.09.250 Advertising violations--Procedure. [1973 1st ex.s. c 13 § 25.] Repealed by 1982 c 227 § 24.

19.09.260 Investigations--Powers and duties of director. [1977 ex.s. c 222 § 12; 1973 1st ex.s. c 13 § 26.] Repealed by 1982 c 227 § 24.

19.09.265 Investigations, proceedings, or hearings--Oaths and affirmations--Subpoena powers--Contempt--Venue. [1981 c 67 § 25; 1977 ex.s. c 222 § 13.] Repealed by 1982 c 227 § 24.

19.09.270 Violations--Cease and desist orders--Injunctions. [1973 1st ex.s. c 13 § 27.] Repealed by 1982 c 227 § 24.

19.09.280 Suspension or revocation of registration--Grounds--Cease and desist order as alternative. [1977 ex.s. c 222 § 15; 1973 1st ex.s. c 13 § 28.] Repealed by 1982 c 227 § 24.

19.09.285 Administrative procedure act to govern proceedings. [1977 ex.s. c 222 § 16.] Repealed by 1982 c 227 § 24.

19.09.290 Suits by or against charitable organization--Notice. [1973 1st ex.s. c 13 § 29.] Repealed by 1982 c 227 § 24.

19.09.300 Judicial review. [1973 1st ex.s. c 13 § 30.] Repealed by 1982 c 227 § 24.

19.09.310 Rules and regulations. [1973 1st ex.s. c 13 § 31.] Repealed by 1982 c 227 § 24.

19.09.320 Additional powers and duties of director. [1973 1st ex.s. c 13 § 32.] Repealed by 1982 c 227 § 24.

19.09.350 Fees. [1975 1st ex.s. c 30 § 89; 1973 1st ex.s. c 13 § 35.] Repealed by 1982 c 227 § 24.

19.09.360 Compliance required for registration. [1973 1st ex.s. c 13 § 36.] Repealed by 1982 c 227 § 24.

19.09.370 Radio, television stations, newspapers exempt--Exception. [1977 ex.s. c 222 § 17; 1973 1st ex.s. c 66 § 1.] Repealed by 1982 c 227 § 24.

19.09.900 Effective date--1973 1st ex.s. c 13. [1973 1st ex.s. c 13 § 37.] Repealed by 1982 c 227 § 24.

Chapter 19.24

COPYRIGHT PROTECTION

19.24.010 Performance, selling, of copyrighted music or drama forbidden, when. [1937 c 218 § 2; RRS § 3802-1.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.020 Unlawful combinations--Per piece royalties--Parting with right to restrict use. [1937 c 218 § 3; RRS § 3802-2. Formerly RCW 19.24.020 and 19.24.030.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.040 Listing of pooled copyrighted works required. [1967 c 40 § 1; 1937 c 218 § 4; RRS § 3802-3. FORMER PART OF SECTION: 1937 c 218 § 6; RRS § 3802-5, now codified as RCW 19.24.055.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.050 Lists of copyrighted works--Open to public--Publication provided for. [1937 c 218 § 5; RRS § 3802-4.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.055 Filing required of nonresident and foreign copyright holders--Exception. [1937 c 218 § 6; RRS § 3802-5. Formerly RCW 19.24.040, part.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.060 Declaration of purpose of legislation--Situs of copyrighted work. [1937 c 218 § 7; RRS § 3802-6. Formerly RCW 19.24.060 through 19.24.090.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.100 Doing business defined--Amenability to process--Service on nonresidents. [1973 c 108 § 1; 1937 c 218 § 8; RRS § 3802-7. Formerly RCW 19.24.100 through 19.24.130.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.140 Injunction--Receivership--Escheat. [1977 ex.s. c 82 § 1; 1937 c 218 § 9; RRS § 3802-8. Formerly RCW 19.24.140 through 19.24.270.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.280 Special appearances deemed general. [1937 c 218 § 10; RRS § 3802-9.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.290 Violations--Penalties. [1937 c 218 § 11; RRS § 3802-10.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.300 Concurrent injunctions or receiverships. [1937 c 218 § 13; RRS § 3802-12.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

19.24.900 Severability--General repealer--1937 c 218. [1937 c 218 § 12; RRS § 3802-11.] Repealed by 1982 c 35 § 200, effective July 1, 1982.

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19.31.200 Employment agency advisory board--Created--Membership--Terms--Removal--Vacancies--Meetings--Officers--Duties and responsibilities. [1977 ex.s. c 51 § 9; 1969 ex.s. c 228 § 20.] Repealed by 1982 c 227 § 24.

Chapter 19.105

CAMPING CLUBS

19.105.010 Definitions. [1979 c 158 § 84; 1972 ex.s. c 106 § 1.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.020 Permit for promotion required before selling memberships. [1972 ex.s. c 106 § 2.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.030 Application for promotion permit. [1972 ex.s. c 106 § 3.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.040 Conditional granting of promotion permit--Impounding proceeds. [1972 ex.s. c 106 § 4.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.045 Promotion and selling permit--Duration--Renewal--Fee--Conditions. [1975 1st ex.s. c 150 § 9.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.050 Reserve fund for acquisition of land or improvements. [1972 ex.s. c 106 § 5.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.060 Sales and promotion literature, contract forms--Filing. [1972 ex.s. c 106 § 6.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.070 Grounds for suspension of promotion permit—Revocation. [1972 ex.s. c 106 § 7.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.080 Cancellation of club membership contract. [1972 ex.s. c 106 § 8.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.090 Contract voidable, when. [1972 ex.s. c 106 § 9.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.100 Prerequisites for granting promotion permit—Conditional permit. [1972 ex.s. c 106 § 10.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.110 Management fees or charges—Approval by director—Liability of promoter. [1972 ex.s. c 106 § 11.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.120 Selling membership in camping club for which promotion permit not in force prohibited—Exception. [1975 1st ex.s. c 150 § 1; 1972 ex.s. c 106 § 12.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.130 Application fee—Additional fees. [1972 ex.s. c 106 § 13.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.140 Administrative Procedure Act applicable to chapter—Duties of director. [1972 ex.s. c 106 § 14.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.150 Camping clubs not considered subdivisions—Powers of cities and towns not impaired. [1972 ex.s. c 106 § 15.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.160 Chapter not exclusive. [1972 ex.s. c 106 § 16.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.170 Exceptions. [1972 ex.s. c 106 § 17.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.180 Effective date of rules and regulations. [1972 ex.s. c 106 § 18.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.190 Chapter not applicable to certain camping clubs. [1972 ex.s. c 106 § 19.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.200 Violations constitute unfair or deceptive practice. [1973 1st ex.s. c 79 § 1.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.210 Making false or misleading statements prohibited. [1975 1st ex.s. c 150 § 2.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.220 Violations—Penalty—Time limitation. [1975 1st ex.s. c 150 § 3.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.230 Violations—Referral to attorney general or prosecuting attorney—Action by director. [1975 1st ex.s. c 150 § 4.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.240 Punishment under other law not limited. [1975 1st ex.s. c 150 § 5.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.250 Investigations authorized—Publication of violations. [1975 1st ex.s. c 150 § 6.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.260 Investigations—Powers of director and superior courts. [1975 1st ex.s. c 150 § 7.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.270 Violations—Cease and desist orders—Procedure—Injunctions. [1975 1st ex.s. c 150 § 8.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

19.105.900 Severability—1972 ex.s. c 106. [1972 ex.s. c 106 § 20.] Repealed by 1982 c 69 § 28, effective November 1, 1982.

Title 23A

WASHINGTON BUSINESS CORPORATION ACT

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SUBSTANTIVE PROVISIONS

23A.08.480 Initial and annual report—Contents—Filing—Compliance—Violation—Penalty. [1980 c 99 § 9; 1977 ex.s. c 193 § 3; 1973 c 71 § 1; 1971 ex.s. c 133 § 1; 1971 ex.s. c 38 § 6; 1969 ex.s. c 83 § 2; 1967 c 190 § 3; 1965 c 53 § 51.] Recodified as amended by 1982 c 35 § 12 as RCW 23A.40.032 pursuant to 1982 c 35 § 13, effective July 1, 1982.

Chapter 23A.32

FOREIGN CORPORATIONS

23A.32.078 Surtax on license and filing fees imposed. [1979 c 16 § 53.] Repealed by 1982 c 35 § 201, effective January 1, 1983.

Chapter 23A.40

FEEES AND CHARGES

23A.40.150 Surtax imposed. [1979 c 16 § 58; 1971 ex.s. c 2 § 1.] Repealed by 1982 c 35 § 201, effective January 1, 1983.

Title 28A

COMMON SCHOOL PROVISIONS

Chapter 28A.35

KINDERGARTENS

28A.35.010 Free kindergartens authorized—Duties of directors. [1972 ex.s. c 105 § 1; 1969 ex.s. c 223 § 28A.35.010. Prior: 1965 ex.s. c 124 § 19; 1911 c 82 § 1, part; 1909 c 97 p 371 § 1; RRS 5096; prior: 1897 c 118 § 181, part. Formerly RCW 28.35.010.] Repealed by 1982 c 158 § 7.

28A.35.011 First class districts may establish and maintain. Cross-reference section, decodified. See 1982 c 158 § 7.

28A.35.020 Part of common school system. [1969 ex.s. c 223 § 28A.35.020. Prior: (i) 1909 c 97 p 371 § 2; RRS § 5097. Formerly RCW 28.35.020. (ii) 1917 c 127 § 1, part; RRS § 5098, part. Formerly RCW 28.35.030, part.] Repealed by 1982 c 158 § 7.

28A.35.030 Maintained from district general school fund—Attendance reports for apportionment purposes—Census enumeration. [1980 c 6 § 4; 1975 1st ex.s. c 275 § 59; 1971 c 48 § 13; 1969 ex.s. c 223 § 28A.35.030. Prior: 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1; 1909 c 97 p 371 subc. 19; 1897 c 118 § 181. Formerly RCW 28.35.030, 28.35.050 and 28.35.060.] Repealed by 1982 c 158 § 7.

28A.35.070 Qualifications for teachers. [1969 ex.s. c 223 § 28A.35.070. Prior: 1909 c 97 p 371 § 4; RRS § 5099; prior: 1897 c 118 § 181, part. Formerly RCW 28.35.070.] Repealed by 1982 c 158 § 7.

28A.35.080 Special meeting to determine if district should maintain. Cross-reference section, decodified. See 1982 c 158 § 7.

Chapter 28A.41

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(Formerly: Current state school fund—School district reimbursement programs)

28A.41.260 URRD advisory committee—Appointment, terms. [1974 ex.s. c 85 § 2.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Chapter 28A.58

PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

28A.58.180 Minimum annual school term. [1972 ex.s. c 105 § 3; 1969 ex.s. c 223 § 28A.58.180. Prior: 1909 c 97 p 263 § 7; RRS §

4691; prior: 1903 c 104 § 23; 1897 c 118 § 70. Formerly RCW 28.58-.180.] Repealed by 1982 c 158 § 7.

Title 28B HIGHER EDUCATION

Chapter 28B.04 DISPLACED HOMEMAKER ACT

28B.04.130 Program as pilot project—Duration. [1979 c 73 § 13.] Repealed by 1982 1st ex.s. c 15 § 9.

Chapter 28B.10 COLLEGES AND UNIVERSITIES GENERALLY

28B.10.200 Scholarships for foreign students at state universities. [1973 c 62 § 1; 1969 ex.s. c 223 § 28B.10.200. Prior: 1949 c 55 § 1; 1945 c 236 § 1; Rem. Supp. 1949 § 4543-15. Formerly RCW 28.76-.110.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.10.250 Benefits to children of deceased or totally incapacitated veterans—Authorized. [1973 c 62 § 2; 1969 ex.s. c 223 § 28B.10.250. Prior: 1947 c 224 § 1; 1939 c 193 § 1; 1937 c 203 § 1; Rem. Supp. 1947 § 10737-4. Formerly RCW 28.76.150.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.10.255 Benefits to children of deceased or totally incapacitated veterans—Eligibility and need—Payment of charges. [1974 ex.s. c 68 § 3; 1969 ex.s. c 223 § 28B.10.255. Prior: 1947 c 224 § 2; 1939 c 193 § 2; 1937 c 203 § 2; Rem. Supp. 1947 § 10737-5. Formerly RCW 28.76.160.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.10.260 Benefits to children of deceased or totally incapacitated veterans—Limitation of annual benefits. [1969 ex.s. c 223 § 28B.10.260. Prior: 1947 c 224 § 3; 1939 c 193 § 3; 1937 c 203 § 3; Rem. Supp. 1947 § 10737-6. Formerly RCW 28.76.170.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

Chapter 28B.15 COLLEGE AND UNIVERSITY FEES

28B.15.523 Community colleges—Waiver of fees at—"Needy student" defined for purposes of. [1971 ex.s. c 279 § 13; 1970 ex.s. c 59 § 9. Like section formerly RCW 28.85.313.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.525 Community colleges—Waiver of fees at—State board to establish criteria for trustees' determination of applicant as "needy student"—Limitation. [1971 ex.s. c 279 § 14; 1970 ex.s. c 59 § 10. Like section formerly RCW 28.85.315.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.530 Waiver of tuition and fees for needy and disadvantaged students—Limitations. [1977 ex.s. c 169 § 39; 1971 ex.s. c 279 § 11.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.550 Resident status fees for certain immigrant refugees—Purpose. [1977 ex.s. c 265 § 1.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.551 Resident status fees for certain immigrant refugees—"Parole status" defined. [1977 ex.s. c 265 § 2.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.552 Resident status fees for certain immigrant refugees—Granted. [1977 ex.s. c 265 § 3.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.553 Resident status fees for certain nonimmigrant aliens—Granted. [1977 ex.s. c 155 § 1.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.554 Resident status fees for certain nonimmigrant aliens—Purpose. [1977 ex.s. c 155 § 3.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.557 Resident status fees for students of consular mission parent—Limitation—Program review and determination. [1979 ex.s. c 19 § 1.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.710 General tuition and fees for residents of British Columbia, Canada—Limitations—Program review. [1977 ex.s. c 322 § 13.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.742 Waiver of nonresident tuition and fees for students being citizens from foreign nations—Reciprocity—Regional universities and The Evergreen State College. [1979 ex.s. c 262 § 2.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

28B.15.744 Waiver of tuition and fees for displaced homemakers—Community colleges. [1979 ex.s. c 262 § 4.] Repealed by 1982 1st ex.s. c 37 § 5, effective June 1, 1982.

Chapter 28B.16 STATE HIGHER EDUCATION PERSONNEL LAW

28B.16.050 Returning to classified service status after temporary appointment in exempt position. [1969 ex.s. c 36 § 5. Formerly RCW 28.75.050.] Repealed by 1982 1st ex.s. c 53 § 31. Later enactment, see RCW 28B.16.040.

Title 29 ELECTIONS

Chapter 29.30 BALLOTS

29.30.071 Paper ballots—Order of lists of candidates. [1977 ex.s. c 361 § 59.] Repealed by 1982 c 121 § 4.

29.30.080 General election ballots—Form. [1977 ex.s. c 329 § 14; 1971 c 18 § 1; 1965 c 52 § 2; 1965 c 9 § 29.30.080. Prior: (i) 1947 c 77 § 1; 1935 c 20 § 3; 1901 c 89 § 1; 1895 c 116 § 4; 1891 c 106 § 1; 1889 p 406 § 17; Rem. Supp. 1947 § 5274. (ii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.] Repealed by 1982 c 121 § 4; and repealed by 1977 ex.s. c 361 § 111, effective January 1, 1978.

29.30.100 General election ballots—What names to appear. [1977 ex.s. c 329 § 15; 1965 c 9 § 29.30.100. Prior: 1961 c 130 § 9; prior: 1907 c 209 § 24, part; RRS § 5201, part.] Repealed by 1982 c 121 § 4; and repealed by 1977 ex.s. c 361 § 111, effective January 1, 1978.

29.30.470 Order of lists of candidates. [1977 ex.s. c 361 § 48.] Repealed by 1982 c 121 § 4.

Chapter 29.79 INITIATIVE AND REFERENDUM

29.79.130 Petitions—Expense—Contributors—Sworn statement. [1965 c 9 § 29.79.130. Prior: 1913 c 138 § 11, part; RRS § 5407, part.] Repealed by 1982 c 116 § 17.

29.79.220 Initiatives and referenda to voters—Canvass and count of signatures. [1969 ex.s. c 107 § 2; 1965 c 9 § 29.79.220. Prior: 1933 c 144 § 3; 1913 c 138 § 18; RRS § 5414.] Repealed by 1982 c 116 § 17, cf. RCW 29.79.200.

Title 30 BANKS AND TRUST COMPANIES

Chapter 30.42 ALIEN BANKS

30.42.110 Powers and activities. [1975 1st ex.s. c 285 § 1; 1973 1st ex.s. c 53 § 11.] Repealed by 1982 c 95 § 8, effective July 1, 1982.

Title 33

SAVINGS AND LOAN ASSOCIATIONS

Chapter 33.04

GENERAL PROVISIONS

33.04.040 Examination of foreign association or corporation--Expense. [1945 c 235 § 97; Rem. Supp. 1945 § 3717-216. Prior: 1933 c 183 § 94; 1919 c 169 § 12; 1913 c 110 § 19; 1890 p 56 § 9.] Repealed by 1982 c 3 § 115.

33.04.050 Actions and proceedings. [1945 c 235 § 101; Rem. Supp. 1945 § 3717-220. Prior: 1933 c 183 §§ 94, 97.] Repealed by 1982 c 3 § 115.

Chapter 33.08

ORGANIZATION--ARTICLES--BYLAWS

33.08.120 Publication of notice of application for a new association or branch--Protests. [1959 c 280 § 8.] Repealed by 1982 c 3 § 115.

Chapter 33.12

POWERS AND RESTRICTIONS

33.12.030 Assets, how held and carried. [1945 c 235 § 31; Rem. Supp. 1945 § 3717-150. Prior: 1933 c 183 § 81.] Repealed by 1982 c 3 § 115.

33.12.040 Management agreements prohibited. [1945 c 235 § 33; Rem. Supp. 1945 § 3717-152. Prior: 1933 c 183 § 61.] Repealed by 1982 c 3 § 115.

33.12.050 Borrowing and pledging securities. [1961 c 222 § 1; 1945 c 235 § 34; Rem. Supp. 1945 § 3717-153. Prior: 1939 c 98 § 7; 1933 c 183 § 48; 1903 c 116 § 3; 1890 p 56 § 6.] Repealed by 1982 c 3 § 115.

33.12.070 Limit of bank deposits. [1945 c 235 § 36; Rem. Supp. 1945 § 3717-155.] Repealed by 1982 c 3 § 115.

33.12.080 Deposits in bank of which director is officer. [1945 c 235 § 37; Rem. Supp. 1945 § 3717-156.] Repealed by 1982 c 3 § 115.

33.12.090 Dividends. [1967 c 49 § 2; 1963 c 246 § 3; 1953 c 71 § 3; 1945 c 235 § 49; Rem. Supp. 1945 § 3717-168. Prior: 1939 c 98 § 13; 1933 c 183 §§ 64, 65; 1925 ex.s. c 144 § 4; 1919 c 169 § 6; 1913 c 110 § 7.] Repealed by 1982 c 3 § 115.

33.12.110 Segregating assets--Transfer to new corporation. [1945 c 235 § 55; Rem. Supp. 1945 § 3717-174. Prior: 1939 c 98 § 6; 1935 c 171 § 2; 1933 c 183 § 47.] Repealed by 1982 c 3 § 115.

33.12.120 Segregation corporation debentures--Liquidation. [1945 c 235 § 56; Rem. Supp. 1945 § 3717-175. Prior: 1939 c 98 § 6; 1935 c 171 § 1; 1933 c 183 § 47.] Repealed by 1982 c 3 § 115.

33.12.130 Available fund requirements. [1967 c 49 § 3; 1961 c 222 § 3; 1959 c 280 § 2; 1949 c 20 § 5; 1945 c 235 § 57; Rem. Supp. 1949 § 3717-176. Prior: 1941 c 222 § 3; 1939 c 98 § 8; 1935 c 171 § 2; 1933 c 183 § 49; 1903 c 116 § 3; 1890 p 56 §§ 6, 15.] Repealed by 1982 c 3 § 115.

33.12.160 Federal insurance reserve fund may be credited to contingent fund. [1949 c 20 § 4; 1947 c 257 § 4; 1945 c 235 § 52; Rem. Supp. 1949 § 3717-171.] Repealed by 1982 c 3 § 115.

Chapter 33.16

DIRECTORS, OFFICERS AND EMPLOYEES

33.16.070 Compensation. [1945 c 235 § 21; Rem. Supp. 1945 § 3717-140. Prior: 1933 c 183 § 16.] Repealed by 1982 c 3 § 115.

33.16.100 Reports on sales and purchases. [1945 c 235 § 24; Rem. Supp. 1945 § 3717-143. Prior: 1933 c 183 § 19.] Repealed by 1982 c 3 § 115.

33.16.110 Budget--Limit of expenses. [1975 1st ex.s. c 165 § 2; 1973 c 130 § 25; 1945 c 235 § 25; Rem. Supp. 1945 § 3717-144. Prior: 1941 c 222 § 5; 1933 c 183 §§ 19, 66; 1919 c 169 § 9; 1913 c 110 § 15.] Repealed by 1982 c 3 § 115.

33.16.140 Official communications. [1945 c 235 § 18; Rem. Supp. 1945 § 3717-137. Prior: 1933 c 183 § 80.] Repealed by 1982 c 3 § 115.

33.16.160 Board to designate depositories. [1947 c 257 § 2; 1945 c 235 § 26; Rem. Supp. 1947 § 3717-145. Prior: 1933 c 183 §§ 19, 59.] Repealed by 1982 c 3 § 115.

Chapter 33.20

MEMBERS--SAVINGS

33.20.020 Membership fee, fine or penalty against savings member prohibited. [1945 c 235 § 32; Rem. Supp. 1945 § 3717-151. Prior: 1933 c 183 § 45; 1919 c 169 § 4; 1913 c 110 § 5.] Repealed by 1982 c 3 § 116.

33.20.090 Fully paid, installment, and juvenile savings. [1945 c 235 § 39; Rem. Supp. 1945 § 3717-158. Prior: 1939 c 98 § 3; 1933 c 183 §§ 23, 25, 36; 1919 c 169 § 5; 1913 c 110 § 6.] Repealed by 1982 c 3 § 116.

33.20.100 School savings. [1945 c 235 § 42; Rem. Supp. 1945 § 3717-161. Prior: 1933 c 183 § 26.] Repealed by 1982 c 3 § 116.

33.20.110 Savings to share proportionately in earnings. [1945 c 235 § 47; Rem. Supp. 1945 § 3717-166. Prior: 1933 c 183 §§ 22, 27, 43; 1919 c 169 § 5; 1913 c 110 § 6.] Repealed by 1982 c 3 § 116.

33.20.120 Savings certificates or passbooks. [1945 c 235 § 48; Rem. Supp. 1945 § 3717-167. Prior: 1939 c 98 §§ 4, 7; 1933 c 183 §§ 28, 48.] Repealed by 1982 c 3 § 116.

Chapter 33.24

LOANS AND INVESTMENTS

33.24.095 Unimproved real estate for resale. [1955 c 126 § 3. Prior: 1939 c 98 § 11; 1933 c 183 § 56.] Repealed by 1982 c 3 § 116.

33.24.110 Loans to construct building. [1947 c 257 § 7; 1945 c 235 § 68; Rem. Supp. 1947 § 3717-187. Prior: 1939 c 98 § 11; 1933 c 183 § 56; 1925 ex.s. c 144 § 5; 1913 c 110 § 8.] Repealed by 1982 c 3 § 116.

33.24.120 Appraisal for mortgage loans--Approval. [1979 c 113 § 8; 1973 c 130 § 26; 1959 c 280 § 4; 1949 c 20 § 7; 1945 c 235 § 69; Rem. Supp. 1949 § 3717-188. Prior: 1939 c 98 § 11; 1933 c 183 §§ 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 § 4.] Repealed by 1982 c 3 § 116.

33.24.130 Mortgage loans--Insurance--Evidence of title. [1967 c 49 § 4; 1945 c 235 § 70; Rem. Supp. 1945 § 3717-189. Prior: 1939 c 98 § 11; 1933 c 183 § 56; 1925 ex.s. c 144 § 5; 1913 c 110 § 8.] Repealed by 1982 c 3 § 116.

33.24.135 Reverse annuity mortgage loans. [1979 c 113 § 16.] Repealed by 1982 c 3 § 116.

33.24.140 Real estate contracts. [1953 c 71 § 9; 1945 c 235 § 71; Rem. Supp. 1945 § 3717-190. Prior: 1939 c 98 § 11; 1933 c 183 §§ 56, 58; 1925 ex.s. c 144 § 6; 1913 c 110 §§ 9, 11; 1903 c 116 § 2; 1890 p 56 §§ 4, 5.] Repealed by 1982 c 3 § 116.

33.24.145 Real estate contracts and loans secured by real estate mortgages, deeds of trust or real estate contracts not otherwise eligible. [1979 c 113 § 15.] Repealed by 1982 c 3 § 116.

33.24.150 Notes or loans secured by savings account. [1967 c 49 § 5; 1959 c 280 § 5; 1945 c 235 § 72; Rem. Supp. 1945 § 3717-191. Prior: 1939 c 98 § 11; 1933 c 183 §§ 56, 58; 1913 c 110 § 9; 1903 c 116 § 2; 1890 p 56 § 4.] Repealed by 1982 c 3 § 116.

33.24.170 Real estate for its own use. [1979 c 113 § 9; 1959 c 280 § 6; 1949 c 20 § 8; 1945 c 235 § 74; Rem. Supp. 1949 § 3717-193. Prior: 1939 c 98 §§ 11, 12; 1933 c 183 §§ 56, 57; 1925 ex.s. c 144 § 6; 1913 c 110 § 11; 1890 p 56 § 5.] Repealed by 1982 c 3 § 116.

33.24.180 Assets of segregation corporation. [1945 c 235 § 75; Rem. Supp. 1945 § 3717-194. Prior: 1939 c 98 § 11; 1933 c 183 § 56.] Repealed by 1982 c 3 § 116.

33.24.230 Mobile dwellings. [1979 c 113 § 10; 1973 c 130 § 24; 1967 c 49 § 7.] Repealed by 1982 c 3 § 116.

33.24.240 Home or property repairs, alterations, improvements, additions, home furnishings or appliances. [1979 c 113 § 11; 1967 c 49 § 8.] Repealed by 1982 c 3 § 116.

33.24.250 Loans secured by life insurance. [1969 c 107 § 11.] Repealed by 1982 c 3 § 116.

33.24.260 Loans secured by pledge of loans or investments. [1969 c 107 § 12.] Repealed by 1982 c 3 § 116.

33.24.280 Capital stock, capital debentures and bonds issued by corporations. [1975 1st ex.s. c 165 § 3; 1973 c 130 § 31; 1969 c 107 § 14.] Repealed by 1982 c 3 § 116.

33.24.290 Loans for payment of college or university education, or vocational training. [1972 ex.s. c 42 § 1; 1969 c 107 § 15.] Repealed by 1982 c 3 § 116.

Chapter 33.28

FEES AND TAXES

33.28.030 License fees for foreign associations. [1945 c 235 § 78; Rem. Supp. 1945 § 3717-196. Prior: 1933 c 183 § 83; 1919 c 169 § 11; 1913 c 110 § 18.] Repealed by 1982 c 3 § 117.

Chapter 33.32

FOREIGN ASSOCIATIONS

33.32.010 New foreign associations barred. [1963 c 246 § 8; 1945 c 235 § 80; Rem. Supp. 1945 § 3717-199. Prior: 1933 c 183 § 85.] Repealed by 1982 c 3 § 117.

33.32.040 Deposit to secure investors--Exception. [1961 c 222 § 5; 1945 c 235 § 83; Rem. Supp. 1945 § 3717-202. Prior: 1933 c 183 §§ 58, 87; 1913 c 110 § 9; 1890 p 56 §§ 4, 8.] Repealed by 1982 c 3 § 117.

Chapter 33.40

INSOLVENCY, LIQUIDATION, MERGER

33.40.090 Liquidation of segregation corporation. [1945 c 235 § 111; Rem. Supp. 1945 § 3717-229.] Repealed by 1982 c 3 § 117.

33.40.100 Disposition of unclaimed dividends and records. [1945 c 235 § 111; Rem. Supp. 1945 § 3717-230.] Repealed by 1982 c 3 § 117.

Chapter 33.44

CONVERSION TO MUTUAL SAVINGS BANK

33.44.010 Definitions. [1917 c 154 § 4; RRS § 3757.] Repealed by 1982 c 3 § 117.

Chapter 33.48

GUARANTY STOCK STATE SAVINGS AND LOAN ASSOCIATIONS

33.48.010 Definitions. [1955 c 122 § 2.] Repealed by 1982 c 3 § 117.

33.48.020 Charter authorized. [1955 c 122 § 3.] Repealed by 1982 c 3 § 117.

33.48.050 When stock less than required percentage--Procedure. [1955 c 122 § 6.] Repealed by 1982 c 3 § 117.

33.48.060 Stock owners as voting members--No cumulative voting. [1955 c 122 § 7.] Repealed by 1982 c 3 § 117.

33.48.070 Majority of board must own stock. [1955 c 122 § 8.] Repealed by 1982 c 3 § 117.

Title 35

CITIES AND TOWNS

Chapter 35.39

FISCAL--INVESTMENT OF FUNDS

35.39.041 Investment of pension funds. [1980 c 34 § 1.] Repealed by 1982 c 166 § 7, effective July 1, 1982. Later enactment, see RCW 35.39.060.

Chapter 35.50

LOCAL IMPROVEMENTS--FORECLOSURE OF ASSESSMENTS

35.50.060 Procedure--Commencement of action. [1965 c 7 § 35.50.060. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.070 Procedure--Parties and property included. [1967 c 52 § 18; 1965 c 7 § 35.50.070. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.080 Procedure--Pleadings and evidence. [1965 c 7 § 35.50-.080. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.090 Procedure--Summons and service. [1965 c 7 § 35.50-.090. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.100 Procedure--Trial and judgment. [1965 c 7 § 35.50.100. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.110 Procedure--Appeals. [1965 c 7 § 35.50.110. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.120 Sale. [1965 c 7 § 35.50.120. Prior: 1953 c 134 § 1; 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.130 Sale--Notice. [1965 c 7 § 35.50.130. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.140 Sale--Manner of. [1965 c 7 § 35.50.140. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.150 Sale--Purchaser's title. [1965 c 7 § 35.50.150. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.160 Sale--Report of. [1965 c 7 § 35.50.160. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.170 Sale--Certificate of purchase--Content. [1965 c 7 § 35.50.170. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.180 Sale--Certificate of purchase--Assignment--Recording. [1965 c 7 § 35.50.180. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.190 Sale--Redemption. [1965 c 7 § 35.50.190. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.200 Sale--Deed--Form. [1965 c 7 § 35.50.200. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

35.50.210 Sale--Deed--Validity--Cancellation. [1965 c 7 § 35.50-.210. Prior: (i) 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part. (ii) 1927 c 275 § 6; RRS § 9394-1; prior: 1897 c 111.] Repealed by 1982 c 91 § 9.

Title 36 COUNTIES

Chapter 36.33 COUNTY FUNDS

36.33.110 Distribution of forest reserve funds. [1980 c 154 § 10; 1977 ex.s. c 359 § 15; 1967 c 230 § 1; 1965 ex.s. c 140 § 1; 1963 c 4 § 36.33.110. Prior: (i) 1907 c 185 § 1; RRS § 11021. (ii) 1949 c 131 § 1; 1907 c 185 § 2; Rem. Supp. 1949 § 4057.] Repealed by 1982 c 126 § 3, effective July 1, 1983.

Title 38 MILITIA AND MILITARY AFFAIRS

Chapter 38.12 MILITIA OFFICERS AND ADVISORY COUNCIL

38.12.040 Advisory council. [1943 c 130 § 17; Rem. Supp. 1943 § 8603-17.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

38.12.050 Duties of advisory council. [1943 c 130 § 18; Rem. Supp. 1943 § 8603-18.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Title 41 PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

Chapter 41.06 STATE CIVIL SERVICE LAW

41.06.100 Temporary appointment of classified employee to exempt position—Return to regular position. [1961 c 1 § 10.] Repealed by 1982 1st ex.s. c 53 § 31. Later enactment, see RCW 41.06.070.

Chapter 41.26 LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

41.26.050 Law enforcement officers' and fire fighters' retirement board to administer system—Additional members, election, terms. [1974 ex.s. c 120 § 2; 1972 ex.s. c 131 § 4; 1971 ex.s. c 257 § 7; 1970 ex.s. c 6 § 3; 1969 ex.s. c 209 § 5.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.26.290 Adjustment of payments when record error. [1971 ex.s. c 257 § 16.] Repealed by 1982 c 13 § 2.

Chapter 41.32 TEACHERS' RETIREMENT

41.32.040 Board of trustees—Composition—Terms. [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.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.32.050 Vacancies. [1947 c 80 § 5; Rem. Supp. 1947 § 4995-24. 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.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.32.060 Travel expenses. [1975-'76 2nd ex.s. c 34 § 89; 1947 c 80 § 6; Rem. Supp. 1947 § 4995-25. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; 1917 c 163 § 4, part; Rem. Supp. 1941 § 4995-3, part.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.32.070 Oath of office. [1969 ex.s. c 150 § 2; 1947 c 80 § 7; Rem. Supp. 1947 § 4995-26. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1917 c 163 § 3, part; Rem. Supp. 1941 § 4995-3, part.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.32.080 Voting. [1947 c 80 § 8; Rem. Supp. 1947 § 4995-27. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; Rem. Supp. 1941 § 4995-3, part.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.32.090 Ex officio officers—Duties. [1947 c 80 § 9; Rem. Supp. 1947 § 4995-28. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; Rem. Supp. 1941 § 4995-3, part.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.32.100 Officers and employees. [1969 ex.s. c 150 § 3; 1947 c 80 § 10; Rem. Supp. 1947 § 4995-29. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; 1917 c 163 § 4, part; Rem. Supp. 1941 § 4995-3, part.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.32.660 Correction of errors by board. [1947 c 80 § 66; Rem. Supp. 1947 § 4995-85. Prior: 1937 c 221 § 10.] Repealed by 1982 c 13 § 2.

41.32.680 Deductions from retirement allowances for medical, hospital or other health care. [1975 c 17 § 1; 1972 ex.s. c 147 § 4.] Repealed by 1982 c 135 § 3.

Chapter 41.40

WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

41.40.030 Retirement board—Election, terms. [1977 ex.s. c 34 § 1; 1974 ex.s. c 195 § 1; 1973 1st ex.s. c 190 § 3; 1971 ex.s. c 271 § 3; 1963 c 174 § 2; 1961 c 291 § 2; 1947 c 274 § 3; Rem. Supp. 1947 § 11072-3.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.40.040 Vacancies—Effect of nonattendance. [1963 c 174 § 3; 1961 c 291 § 3; 1947 c 274 § 4; Rem. Supp. 1947 § 11072-4.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.40.050 Oath of office—Quorum—Travel expenses. [1975-'76 2nd ex.s. c 34 § 90; 1947 c 274 § 5; Rem. Supp. 1947 § 11072-5.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.40.060 Board officers, employees. [1963 c 174 § 4; 1949 c 240 § 3; 1947 c 274 § 6; Rem. Supp. 1949 § 11072-6.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

41.40.125 Membership—Persons seventy or over—Employment restrictions. [1953 c 200 § 21.] Repealed by 1982 1st ex.s. c 52 § 36, effective July 1, 1982.

41.40.390 Correction of errors. [1947 c 274 § 40; Rem. Supp. 1947 § 11072-40.] Repealed by 1982 c 13 § 2.

Chapter 41.60

STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY

41.60.040 Amount of awards. [1975-'76 2nd ex.s. c 122 § 2; 1969 ex.s. c 152 § 5; 1965 ex.s. c 142 § 4.] Repealed by 1982 c 167 § 14. Later enactment, see RCW 41.60.041.

41.60.060 Fiscal support for awards and expenses. [1969 ex.s. c 152 § 7; 1965 ex.s. c 142 § 6.] Repealed by 1982 c 167 § 14.

41.60.070 Funds—Disbursement. [1975-'76 2nd ex.s. c 122 § 4; 1969 ex.s. c 152 § 8.] Repealed by 1982 c 167 § 14.

41.60.900 Construction—Prospective application. [1975-'76 2nd ex.s. c 122 § 6; 1965 ex.s. c 142 § 7.] Decodified pursuant to 1982 c 167 § 16.

41.60.905 Application of chapter to employees of institutions of higher education. [1975-'76 2nd ex.s. c 122 § 8.] Decodified pursuant to 1982 c 167 § 16.

Title 42 PUBLIC OFFICERS AND AGENCIES

Chapter 42.04 GENERAL PROVISIONS

42.04.021 Eligibility to vote and hold office—Code 1881. [Code 1881 § 3050; 1854 p 64 § 1. Cf. 1883 p 39 § 1; 1885 p 113 § 1; 1887 c 51. Formerly RCW 42.04.020, part.] Repealed by 1982 c 99 § 1.

Chapter 42.17

DISCLOSURE--CAMPAIGN FINANCES--LOBBYING--RECORDS

42.17.140 Campaign expenditure limitations. [1973 c 1 § 14 (Initiative Measure No. 276 § 14).] Repealed by 1982 c 147 § 19.

42.17.392 Civil penalty for untimely filing--Payment--Waiver--Enforcement. [1975-'76 2nd ex.s. c 112 § 11.] Repealed by 1982 c 147 § 19.

Title 43

STATE GOVERNMENT--EXECUTIVE

Chapter 43.19

DEPARTMENT OF GENERAL ADMINISTRATION

43.19.580 Motor vehicle transportation service--Automotive policy board--Members--Officers--Powers and duties. [1979 c 158 § 93; 1975 1st ex.s. c 167 § 6.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Chapter 43.22

DEPARTMENT OF LABOR AND INDUSTRIES

43.22.280 Industrial welfare committee. [1973 2nd ex.s. c 16 § 4; 1973 1st ex.s. c 154 § 84; 1965 c 8 § 43.22.280. Prior: 1921 c 7 § 82; RRS § 10840.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Chapter 43.31

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

43.31.090 Advisory council--Appointment, term, vacancies, travel expenses. [1975-'76 2nd ex.s. c 34 § 108; 1975 1st ex.s. c 292 § 1; 1965 c 8 § 43.31.090. Prior: 1959 c 228 § 1; 1957 c 215 § 9.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.31.100 Advisory council--Powers and duties. [1965 c 8 § 43.31.100. Prior: 1957 c 215 § 10.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.31.950 International performing festival arts steering commission created--Membership--Meetings--Termination. [1979 ex.s. c 197 § 7.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.31.952 Authority to accept gift of real estate. [1979 ex.s. c 197 § 8.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.31.954 Power of international performing festival arts steering commission to form nonprofit corporation. [1979 ex.s. c 197 § 9.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Chapter 43.38

TAX ADVISORY COUNCIL

43.38.050 Expenditures. [1965 c 8 § 43.38.050. Prior: 1957 c 291 § 5.] Repealed by 1982 1st ex.s. c 41 § 4.

Chapter 43.43

WASHINGTON STATE PATROL

43.43.140 Management--Retirement board, composition, terms, elections, vacancies, business. [1965 c 8 § 43.43.140. Prior: 1961 c 300 § 6; 1957 c 162 § 1; 1947 c 250 § 3; Rem. Supp. 1947 § 6362-83.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.43.150 Employees of board. [1965 c 8 § 43.43.150. Prior: 1947 c 250 § 4; Rem. Supp. 1947 § 6362-84.] Repealed by 1982 c 163 § 23, effective June 30, 1982; and repealed by 1982 1st ex.s. c 52 § 36, effective July 1, 1982.

43.43.160 Oath of members--Compensation. [1965 c 8 § 43.43.160. Prior: 1947 c 250 § 5; Rem. Supp. 1947 § 6362-85.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.43.265 Recomputation of average final salary. [1965 c 8 § 43.43.265. Prior: 1959 c 8 § 1; 1955 c 244 § 5.] Repealed by 1982 1st ex.s. c 52 § 36, effective July 1, 1982.

43.43.266 Recomputation of average final salary--Construction. [1965 c 8 § 43.43.266. Prior: 1959 c 8 § 2.] Repealed by 1982 1st ex.s. c 52 § 36, effective July 1, 1982.

43.43.267 Recomputation of average final salary--1969 c 12. [1969 c 12 § 5.] Repealed by 1982 1st ex.s. c 52 § 36, effective July 1, 1982.

Chapter 43.51

PARKS AND RECREATION COMMISSION

43.51.520 Youth development and conservation committee. [1969 ex.s. c 96 § 2; 1965 c 8 § 43.51.520. Prior: 1961 c 215 § 3.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Chapter 43.85

STATE DEPOSITARIES

43.85.140 Designation of depositaries. [1965 c 8 § 43.85.140. Prior: 1911 c 51 § 2; RRS § 5556.] Repealed by 1981 2nd ex.s. c 4 § 15.

43.85.160 Rate of interest. [1965 c 8 § 43.85.160. Prior: 1935 c 60 § 1; 1911 c 51 § 4; RRS § 5558.] Repealed by 1981 2nd ex.s. c 4 § 15.

43.85.180 Form of statement--Penalty. [1965 c 8 § 43.85.180. Prior: 1911 c 51 § 6.] Repealed by 1981 2nd ex.s. c 4 § 15.

Chapter 43.88

BUDGET AND ACCOUNTING

43.88.115 Reductions in general fund expenditures for elected public officials and educational agencies. [1975 1st ex.s. c 293 § 7; 1971 ex.s. c 263 § 1.] Repealed by 1982 2nd ex.s. c 15 § 4.

Chapter 43.94

OCEANOGRAPHIC COMMISSION

43.94.010 Declaration. [1967 c 243 § 1.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.94.020 Commission created--Composition--Terms--Vacancies--Expenses. [1967 c 243 § 2.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.94.030 Chairman--Secretary--Employees--Meetings--Quorum--Voting. [1967 c 243 § 3.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.94.040 Powers, duties and functions. [1967 c 243 § 4.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.94.050 Oceanographic institute--Formation--Composition--Powers and duties. [1967 c 243 § 5.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.94.900 Severability--1967 c 243. [1967 c 243 § 6.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Chapter 43.96

WORLD FAIR COMMISSION--CENTURY 21 EXPOSITION

43.96.010 Declaration of purpose. [1955 c 207 § 1.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96.020 World fair commission created--Composition, term, compensation meetings. [1961 c 152 § 5; 1959 c 109 § 1; 1957 c 15 § 1; 1955 c 307 § 2.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96.030 Studies authorized--Report--Personnel. [1957 c 15 § 2; 1955 c 307 § 3.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96.040 Commission may organize as nonprofit corporation. [1957 c 15 § 3.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96.050 Commission to stage world fair--Exhibits. [1957 c 15 § 4.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96.060 World fair designated as Century 21 Exposition. [1959 c 109 § 2.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96.070 Display space for department of institutions to be furnished without charge—Use of proceeds of sale. [1961 c 129 § 1.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Liquidation of Century 21 Exposition, Inc.: See 1963 c 247.

Chapter 43.96B

EXPO '74

43.96B.040 Expo '74 commission—Created—Membership—Meetings. [1971 ex.s. c 1 § 4.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96B.050 Members may be directors of nonprofit corporation—Duty to stage exposition. [1971 ex.s. c 1 § 5.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.96B.130 Use of site and buildings by Expo '74 commission. [1971 ex.s. c 3 § 7.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Chapter 43.131

WASHINGTON SUNSET ACT OF 1977

43.131.229 Automotive policy board—Termination. [1979 c 99 § 41.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

43.131.230 Automotive policy board—Repeal. [1979 c 99 § 83.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapter 44.20

SESSION LAWS

44.20.040 Temporary publication—Distribution of copies. [1981 c 162 § 2; 1969 c 6 § 3; 1933 ex.s. c 31 § 2; 1933 c 27 § 2; 1907 c 136 § 4; RRS § 8199.] Repealed by 1982 1st ex.s. c 32 § 8. Later enactment, see RCW 40.04.035.

Title 46

MOTOR VEHICLES

Chapter 46.90

WASHINGTON MODEL TRAFFIC ORDINANCE

46.90.424 U turn restrictions. [1975 1st ex.s. c 54 § 70.] Repealed by 1982 c 25 § 4.

Title 48

INSURANCE

Chapter 48.12

ASSETS AND LIABILITIES

48.12.150 Standard valuation law—Life insurance. [1979 c 157 § 1; 1973 1st ex.s. c 162 § 4; 1963 c 195 § 13; 1961 c 194 § 3; 1959 c 225 § 3; 1957 c 193 § 7; 1947 c 79 § .12.15; Rem. Supp. 1947 § 45.12.15.] Repealed by 1982 1st ex.s. c 9 § 36. Later enactment, see chapter 48.74 RCW.

Chapter 48.23

LIFE INSURANCE AND ANNUITIES

48.23.350 Standard nonforfeiture law—Life insurance. [1979 c 157 § 4; 1973 1st ex.s. c 162 § 5; 1963 c 195 § 20; 1961 c 194 § 7; 1959 c 225 § 8; 1957 c 193 § 15; 1947 c 79 § .23.35; Rem. Supp. 1947 § 45.23.35.] Repealed by 1982 1st ex.s. c 9 § 36. Later enactment, see chapter 48.76 RCW.

Chapter 48.40

FUNERAL SERVICES

48.40.002 Prearrangement funeral service contracts—Authorized—Definitions. [1977 ex.s. c 163 § 1.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.240.

48.40.005 Prearrangement funeral service contracts—Trust funds. [1977 ex.s. c 163 § 2.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.250.

48.40.007 Prearrangement funeral service contracts—Certificate of registration—Required. [1977 ex.s. c 163 § 3.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.260.

48.40.012 Prearrangement funeral service contracts—Qualifications for certificates of registration. [1977 ex.s. c 163 § 4.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.270.

48.40.015 Prearrangement funeral service contracts—Grounds for nonrenewal, revocation, or suspension of certificate of registration. [1977 ex.s. c 163 § 5.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.300.

48.40.017 Prearrangement funeral service contracts—Requirements to apply for original certificate of registration. [1977 ex.s. c 163 § 6.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.280.

48.40.025 Renewal of certificates of registration—Fees—Amounts—Disposition. [1977 ex.s. c 163 § 7.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.290.

48.40.035 Suspension, revocation, or refusal to renew certificates of registration—Notice of intention—Effect of suspension, etc.—Notice. [1979 c 158 § 207; 1977 ex.s. c 163 § 8.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.310.

48.40.045 Annual statement of financial condition—Filing—Form—Contents—Effect of failure to file. [1977 ex.s. c 163 § 9.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.320.

48.40.055 Prearrangement funeral contract forms—Approval required—Grounds for disapproval. [1977 ex.s. c 163 § 10.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.330.

48.40.065 Rules and regulations—Investigations—Examinations—Hearings. [1977 ex.s. c 163 § 11.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.340.

48.40.075 Violations—Noncompliance—Penalty—Unfair practice—Chapter 63.14 RCW governs retail installment transactions. [1977 ex.s. c 163 § 12.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.350.

48.40.080 Sale, etc., of contract or certificate for funeral services—Laws applicable. [1953 c 279 § 1.] Repealed by 1982 c 66 § 19, effective September 1, 1982.

48.40.090 Fraternal, benevolent associations, etc., and labor unions excepted. [1953 c 279 § 2.] Repealed by 1982 c 66 § 19, effective September 1, 1982. Later enactment, see RCW 18.39.360.

48.40.900 Severability—1977 ex.s. c 163. [1977 ex.s. c 163 § 14.] Repealed by 1982 c 66 § 19, effective September 1, 1982.

Chapter 48.44

HEALTH CARE SERVICES

48.44.025 Agreements for vision care—Performance by nonparticipating optometrists—Reimbursement or indemnity to be provided. [1969 c 143 § 1.] Repealed by 1982 c 181 § 27.

Chapter 48.66

MEDICARE SUPPLEMENTAL HEALTH INSURANCE ACT

48.66.040 Minimum coverage requirements. [1981 c 153 § 4.] Repealed by 1982 c 200 § 4. Later enactment, see RCW 48.66.041.

Title 60

LIENS

Chapter 60.28

LIEN FOR LABOR, MATERIALS, TAXES ON PUBLIC WORKS

60.28.070 Payment of reserved funds by highway commission or cities or counties prior to completion of contract—Unforeseen conditions. [1969 ex.s. c 151 § 2; 1967 ex.s. c 26 § 26; 1957 c 91 § 1.] Repealed by 1982 c 170 § 4.

Title 66

ALCOHOLIC BEVERAGE CONTROL

Chapter 66.28

MISCELLANEOUS REGULATORY PROVISIONS

66.28.020 Persons interested or dealing in distilled spirits barred from interest in brewery or beer wholesaler's business or location—Advances prohibited—Exceptions. [1979 ex.s. c 23 § 1; 1969 ex.s. c 275 § 1; 1969 ex.s. c 178 § 12; 1945 c 48 § 2 (adding new section 90-A to 1933 ex.s. c 62); Rem. Supp. 1945 § 7306-90A.] Repealed by 1982 c 85 § 12.

66.28.025 Persons interested in business property or location, etc., of wine wholesaler—Advances—Exceptions. [1975-'76 2nd ex.s. c 62 § 1; 1975 1st ex.s. c 173 § 7; 1969 ex.s. c 275 § 3; 1969 ex.s. c 21 § 14.] Repealed by 1982 c 85 § 12.

Title 70

PUBLIC HEALTH AND SAFETY

Chapter 70.44

PUBLIC HOSPITAL DISTRICTS

70.44.005 Purpose. [1979 ex.s. c 155 § 2; 1979 ex.s. c 143 § 2; 1974 ex.s. c 165 § 1; 1945 c 264 § 1; Rem. Supp. 1945 § 6090-30. Formerly RCW 70.44.010, part.] Repealed by 1982 c 84 § 20. Later enactment, see RCW 70.44.003.

70.44.025 Creation of district—Special election. [1945 c 264 § 20; Rem. Supp. 1945 § 6090-49.] Repealed by 1982 c 84 § 20.

70.44.061 Powers and duties—Sales and leases of surplus property. [1970 ex.s. c 7 § 1; 1963 c 102 § 1.] Repealed by 1982 c 84 § 20. Later enactment, see RCW 70.44.300, 70.44.310.

70.44.100 Inspection and approval of plans by state. [1979 c 141 § 107; 1945 c 264 § 8; Rem. Supp. 1945 § 6090-37.] Repealed by 1982 c 84 § 20.

70.44.150 Minimum wage scale on construction. [1945 c 264 § 18; Rem. Supp. 1945 § 6090-47.] Repealed by 1982 c 84 § 20.

70.44.160 Medical management of patients—Hospital standards. [1965 c 157 § 3; 1945 c 264 § 10; Rem. Supp. 1945 § 6090-39.] Repealed by 1982 c 84 § 20.

70.44.250 Lease of real or personal property—Conditions of lease—Performance bond—Surety. [1967 c 227 § 4.] Repealed by 1982 c 84 § 20. Later enactment, see RCW 70.44.310, 70.44.320.

Chapter 70.77

STATE FIREWORKS LAW

70.77.125 Definitions—"Fireworks". [1961 c 228 § 2.] Repealed by 1982 c 230 § 46. Later enactment, see RCW 70.77.126.

70.77.130 Definitions—"Dangerous fireworks". [1961 c 228 § 3.] Repealed by 1982 c 230 § 46. Later enactment, see RCW 70.77.131.

70.77.135 Definitions—"Safe and sane fireworks". [1961 c 228 § 4.] Repealed by 1982 c 230 § 46. Later enactment, see RCW 70.77.136.

70.77.140 Definitions—"Agricultural and wild life fireworks". [1961 c 228 § 5.] Repealed by 1982 c 230 § 46. Later enactment, see RCW 70.77.141.

70.77.145 Definitions—"Class 1 flammable liquid". [1961 c 228 § 6.] Repealed by 1982 c 230 § 46.

70.77.150 Definitions—"Side fuse". [1961 c 228 § 7.] Repealed by 1982 c 230 § 46.

70.77.155 Definitions—"End fuse". [1961 c 228 § 8.] Repealed by 1982 c 230 § 46.

70.77.185 Definitions—"Package". [1961 c 228 § 14.] Repealed by 1982 c 230 § 46.

70.77.195 Definitions—"Exporter". [1961 c 228 § 16.] Repealed by 1982 c 230 § 46.

70.77.220 Definitions—"Salesman". [1961 c 228 § 21.] Repealed by 1982 c 230 § 46.

70.77.225 Definitions—"Sell", "transfer". [1961 c 228 § 22.] Repealed by 1982 c 230 § 46.

70.77.235 Definitions—"Within this state". [1961 c 228 § 24.] Repealed by 1982 c 230 § 46.

70.77.240 Definitions—"Without this state". [1961 c 228 § 25.] Repealed by 1982 c 230 § 46.

70.77.245 Definitions—"The State Fire Marshal's Seal of Registration". [1961 c 228 § 26.] Repealed by 1982 c 230 § 46.

70.77.275 License required prior to issuance of permit. [1961 c 228 § 32.] Repealed by 1982 c 230 § 46.

70.77.300 Valid license prerequisite for permit. [1961 c 228 § 37.] Repealed by 1982 c 230 § 46.

70.77.310 Certain sales and uses exempt from licensing. [1961 c 228 § 39.] Repealed by 1982 c 230 § 46. Later enactment, see RCW 70.77.311.

70.77.350 Delinquent license fee. [1961 c 228 § 47.] Repealed by 1982 c 230 § 46.

70.77.380 Classification of fireworks. [1961 c 228 § 53.] Repealed by 1982 c 230 § 46.

70.77.385 Classification, registration prior to sale, etc.—Labels—Shipments to be prepaid. [1961 c 228 § 54.] Repealed by 1982 c 230 § 46.

70.77.390 Labeling, stamping dangerous fireworks—Marking safe and sane fireworks. [1961 c 228 § 55.] Repealed by 1982 c 230 § 46.

70.77.400 Protective caps or enclosed packages required for safe and sane fireworks. [1961 c 228 § 57.] Repealed by 1982 c 230 § 46.

70.77.445 Removal of vehicle unlawfully used—Notice—Garage-man's lien—Sale when unclaimed. [1961 c 228 § 66.] Repealed by 1982 c 230 § 46.

70.77.470 Bills of lading, invoices to bear license numbers. [1961 c 228 § 71.] Repealed by 1982 c 230 § 46.

70.77.475 Unclassified fireworks—Sale, possession, etc., prohibited. [1961 c 228 § 72.] Repealed by 1982 c 230 § 46.

70.77.490 Possession of unmarked fireworks evidence of violation. [1961 c 228 § 75.] Repealed by 1982 c 230 § 46.

70.77.500 Authorized delivery, transportation of dangerous or agricultural and wild life fireworks. [1961 c 228 § 77.] Repealed by 1982 c 230 § 46.

70.77.505 Sale, discharge where flammables or motor vehicles stored. [1961 c 228 § 78.] Repealed by 1982 c 230 § 46.

70.77.560 Prior rules continued until modified. [1961 c 228 § 89.] Repealed by 1982 c 230 § 46.

Chapter 70.106

HAZARDOUS SUBSTANCES AND ARTICLES
(WASHINGTON POISON PREVENTION ACT OF 1974)

70.106.130 Technical advisory committee. [1975-'76 2nd ex.s. c 34 § 163; 1974 ex.s. c 49 § 13.] Repealed by 1982 c 163 § 23, effective June 30, 1982.

Title 71

MENTAL ILLNESS

(Formerly: Mental Illness and Inebriacy)

Chapter 71.20

STATE AND LOCAL SERVICES FOR MENTALLY RETARDED
AND DEVELOPMENTALLY DISABLED

71.20.015 "Developmentally disabled" defined. [1974 ex.s. c 71 § 2.] Repealed by 1982 c 224 § 5. Later enactment, see RCW 71.20.016.

Chapter 71.24

COMMUNITY MENTAL HEALTH SERVICES ACT

71.24.010 Short title--Purpose. [1967 ex.s. c 111 § 1.] Repealed by 1982 c 204 § 26. Later enactment, see RCW 71.24.011, 71.24.015.

71.24.020 Definitions. [1971 ex.s. c 304 § 6; 1967 ex.s. c 111 § 2.] Repealed by 1982 c 204 § 26. Later enactment, see RCW 71.24.025.

71.24.040 Establishment of programs by county commissioners authorized--Joint county action. [1967 ex.s. c 111 § 4.] Repealed by 1982 c 204 § 26.

71.24.050 Methods of providing mental health services--Responsibility of supervisor or contractor. [1967 ex.s. c 111 § 5.] Repealed by 1982 c 204 § 26.

71.24.060 Community mental health program administrative boards--Appointment--Term--Composition--Expenses. [1971 ex.s. c 204 § 1; 1967 ex.s. c 111 § 6.] Repealed by 1982 c 204 § 26.

71.24.070 Community mental health program administrative boards--Duties. [1967 ex.s. c 111 § 7.] Repealed by 1982 c 204 § 26.

71.24.080 Supervisor of community mental health services--Appointment--Residence--Full or part time. [1967 ex.s. c 111 § 8.] Repealed by 1982 c 204 § 26.

71.24.090 Supervisor of community mental health services--Powers and duties. [1967 ex.s. c 111 § 9.] Repealed by 1982 c 204 § 26.

71.24.120 Contracts for services and facilities--Who may supply--Membership of supervisor in contracting organization. [1967 ex.s. c 111 § 12.] Repealed by 1982 c 204 § 26.

71.24.130 Proposed expenditure plan prerequisite to reimbursement by state--Review--Award. [1967 ex.s. c 111 § 13.] Repealed by 1982 c 204 § 26.

71.24.140 Reimbursable expenditures. [1967 ex.s. c 111 § 14.] Repealed by 1982 c 204 § 26.

71.24.150 Reimbursement by state to counties--Amount--Period. [1971 ex.s. c 204 § 2; 1967 ex.s. c 111 § 15.] Repealed by 1982 c 204 § 26. Later enactment, see RCW 71.24.155.

71.24.165 Level of state financial support not to be less than amounts paid immediately prior to July 1, 1967. [1979 c 141 § 141; 1969 c 61 § 1.] Repealed by 1982 c 204 § 26.

71.24.190 Department to promulgate rules--Travel expenses for attending conferences. [1975-'76 2nd ex.s. c 34 § 165; 1967 ex.s. c 111 § 19.] Repealed by 1982 c 204 § 26.

71.24.210 Payment by patients for services--Exemptions. [1979 ex.s. c 145 § 1; 1967 ex.s. c 111 § 21.] Repealed by 1982 c 204 § 26. Later enactment, see RCW 71.24.215.

71.24.230 Department designated "state mental health authority"--Agreements with federal agencies. [1967 ex.s. c 111 § 23.] Repealed by 1982 c 204 § 26. Later enactment, see RCW 71.24.035.

Title 72

STATE INSTITUTIONS

Chapter 72.13

CORRECTIONAL INSTITUTION FOR MALE FELONS--
RECEPTION AND CLASSIFICATION CENTER

72.13.090 Prisoner's living arrangements. [1959 c 214 § 9.] Repealed by 1982 2nd ex.s. c 2 § 1. Later enactment, see RCW 72.13.091.

Title 74

PUBLIC ASSISTANCE

Chapter 74.04

GENERAL PROVISIONS--ADMINISTRATION

74.04.305 Overpayments and debts due the state--Suspense account--Charge off. [1979 c 141 § 307; 1965 ex.s. c 91 § 1.] Repealed by 1982 c 201 § 22.

74.04.525 Food stamp program--Need or eligibility for public assistance not affected. [1969 ex.s. c 172 § 9.] Repealed by 1981 2nd ex.s. c 10 § 7. Later enactment, see RCW 74.04.750(2).

Chapter 74.08

ELIGIBILITY GENERALLY--STANDARDS OF ASSISTANCE--
OLD AGE ASSISTANCE

74.08.041 Schedules for family assistance grants. [1981 1st ex.s. c 6 § 10.] Repealed by 1981 2nd ex.s. c 10 § 7. Later enactment, see RCW 74.04.770.

74.08.042 Schedule for energy allowance. [1981 1st ex.s. c 6 § 11.] Repealed by 1982 c 127 § 3, effective April 1, 1982. Later enactment, see RCW 74.08.046.

Chapter 74.42

NURSING HOMES--RESIDENT CARE, OPERATING
STANDARDS

74.42.590 Department to review each resident's plan of care. [1980 c 184 § 16; 1979 ex.s. c 211 § 59.] Repealed by 1982 c 120 § 4.

Title 76

FORESTS AND FOREST PRODUCTS

Chapter 76.04

FOREST PROTECTION

76.04.397 Cutting or destroying trees without authority--Penalty. [1923 c 184 § 11, part; RRS § 5813-1. Formerly RCW 9.61-.130.] Repealed by 1982 c 28 § 1. Cf. RCW 79.40.070.

Title 77

GAME AND GAME FISH

Chapter 77.20

BEAVER

77.20.015 Licensed residents may take beaver. [1980 c 24 § 1; 1975 1st ex.s. c 15 § 1; 1963 c 177 § 10.] Repealed by 1980 c 78 § 140, effective July 1, 1981; and repealed by 1982 c 10 § 18.

Title 79 PUBLIC LANDS

Chapter 79.01 PUBLIC LANDS ACT

79.01.008 "Outer harbor line". [1927 c 255 § 2; RRS § 7797-2. Prior: 1911 c 36 § 1; 1897 c 89 § 4; 1895 c 178 § 1. Formerly RCW 79.04.020.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.012 "Harbor area". [1927 c 255 § 3; RRS § 7797-3. Prior: 1911 c 36 § 1; 1897 c 89 § 4; 1895 c 178 § 1. Formerly RCW 79.04.030.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.016 "Inner harbor line". [1927 c 255 § 4; RRS § 7797-4. Formerly RCW 79.04.040.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.020 "First class tidelands". [1927 c 255 § 5; RRS § 7797-5. Prior: 1897 c 89 § 39; 1895 c 178 § 52. Formerly RCW 79.04.050.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.024 "Second class tidelands". [1927 c 255 § 6; RRS § 7797-6. Prior: 1897 c 89 § 39; 1895 c 178 § 52. Formerly RCW 79.04.060.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.028 "First class shorelands". [1927 c 255 § 7; RRS § 7797-7. Prior: 1897 c 89 § 39; 1895 c 178 § 52. Formerly RCW 79.04.070.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.032 "Second class shorelands". [1927 c 255 § 8; RRS § 7797-8. Prior: 1897 c 89 § 39; 1895 c 178 § 52. Formerly RCW 79.04.080.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.044 Harbor line commission. [1927 c 255 § 11; RRS § 7797-11. Formerly RCW 43.65.040, part.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.178 Material removed for channel or harbor improvement, or flood control—Use for public purpose. [1977 ex.s. c 87 § 1; 1970 ex.s. c 54 § 1; 1965 c 47 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.368 Railroad bridges across navigable streams. [1927 c 255 § 92; RRS § 7797-92. Formerly RCW 88.28.010.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.372 Public bridges or trestles across waterways and tide or shore lands. [1927 c 255 § 93; RRS § 7797-93. Prior: 1915 c 20 § 1; 1909 c 158 § 1. Formerly RCW 88.28.020.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.376 Common carriers may bridge or trestle state waterways. [1927 c 255 § 94; RRS § 7797-94. Prior: 1909 c 158 § 1. Formerly RCW 88.28.030.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.380 Location and plans of bridge or trestle to be approved—Future alterations. [1927 c 255 § 95; RRS § 7797-95. Prior: 1909 c 158 § 2. Formerly RCW 88.28.040.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.420 Harbor lines and areas to be established. [1927 c 255 § 105; RRS § 7797-105. Formerly RCW 43.65.040, part.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.424 Relocation of inner harbor line. [1927 c 255 § 106; RRS § 7797-106. Formerly RCW 43.65.050.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.428 First class tide and shore lands to be platted—Public waterways. [1927 c 255 § 107; RRS § 7797-107. Prior: 1901 c 161 § 1; 1897 c 89 § 40; 1895 c 178 § 53; 1890 pp 731-732 §§ 1-5. Formerly RCW 79.16.200.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.432 Streets, waterways, etc., validated. [1927 c 255 § 108; RRS § 7797-108. Prior: 1897 c 89 § 41; 1895 c 178 § 54. Formerly

RCW 79.16.210.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.436 Tide and shore lands—Plats—Record. [1927 c 255 § 109; RRS § 7797-109. Prior: 1901 c 161 § 1; 1897 c 89 § 40; 1895 c 178 § 53. Formerly RCW 79.16.220.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.440 Tide and shore lands—Appraisal—Record. [1927 c 255 § 110; RRS § 7797-110. Prior: 1897 c 89 § 41; 1895 c 178 § 54. Formerly RCW 79.16.230.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.444 Tide and shore lands—Notice of filing plat and record of appraisal—Appeal. [1927 c 255 § 111; RRS § 7797-111. Prior: 1897 c 89 § 44; 1895 c 178 § 57. Formerly RCW 79.16.240.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.448 Tide and shore lands—Preference right of upland owner—How exercised. [1971 ex.s. c 217 § 1; 1927 c 255 § 112; RRS § 7797-112. Prior: 1915 c 147 § 8; 1897 c 89 § 45; 1895 c 178 §§ 58, 61. Formerly RCW 79.16.250.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.452 Tide and shore lands—Sale of remaining lands. [1959 c 257 § 37; 1927 c 255 § 113; RRS § 7797-113. Prior: 1897 c 89 § 47. Formerly RCW 79.16.260.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.456 Tide and shore lands—Petition for replat—Replating and reappraisal—Vacation by replat. [1927 c 255 § 114; RRS § 7797-114. Prior: 1901 c 161 § 1; 1897 c 89 § 40; 1895 c 178 § 53. Formerly RCW 79.16.270.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.460 Tide and shore lands—Dedication of replat—All interests must join. [1927 c 255 § 115; RRS § 7797-115. Prior: 1901 c 161 § 1. Formerly RCW 79.16.280.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.464 Tide and shore lands—Vacation by replat—Preference right of tideland owner. [1927 c 255 § 116; RRS § 7797-116. Prior: 1901 c 161 § 1; 1897 c 89 § 40; 1895 c 178 § 53. Formerly RCW 79.16.290.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.468 Tide and shore lands—Vacation procedure cumulative. [1927 c 255 § 117; RRS § 7797-117. Formerly RCW 79.16.300.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.470 First and second class tidelands and shorelands, waterways of state to be sold only to public entities—Leasing—Limitation. [1974 ex.s. c 186 § 1; 1971 ex.s. c 217 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.471 Construction of RCW 79.01.470—Use and occupancy fee where unauthorized improvements placed on publicly owned aquatic lands. [1974 ex.s. c 186 § 3.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.472 Vacation of waterways—Extension of streets. [1967 ex.s. c 105 § 1; 1927 c 255 § 118; RRS § 7797-118. Prior: 1913 c 171 §§ 1, 2; 1909 c 63 §§ 1 through 3. Formerly RCW 79.16.310.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.474 Second class shorelands—Sale. [1979 c 150 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.476 Effect of replat of tide or shore lands. [1927 c 255 § 119; RRS § 7797-119. Prior: 1901 c 161 § 1; 1897 c 89 § 40; 1895 c 178 § 53. Formerly RCW 79.16.320.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.480 Sale of tidelands other than first class. [1927 c 255 § 120; RRS § 7797-120. Prior: 1899 c 86 § 1; 1897 c 89 § 48. Formerly RCW 79.16.330.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.484 Shorelands of second class—Sale or lease when in best public interest—Preference right of upland owner—Procedure upon determining sale or lease not in best public interest or where transfer made for public use—Platting. [1969 ex.s. c 54 § 1; 1927 c 255 § 121; RRS § 7797-121. Prior: 1901 c 175 §§ 1 through 5; 1899 c

86 § 1; 1897 c 89 § 252. Formerly RCW 79.16.340.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.488 Second class tide or shore lands detached from upland by navigable water. [1927 c 255 § 122; RRS § 7797-122. Prior: 1907 c 256 § 4; 1897 c 89 § 49; 1895 c 178 §§ 65 through 68. Formerly RCW 79.16.350.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.492 Accretions—Preference right to purchase. [1927 c 255 § 123; RRS § 7797-123. Prior: 1899 c 83 § 1; 1897 c 89 § 51; 1895 c 178 § 81. Formerly RCW 79.16.360.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.496 Tide or shore lands—Preference rights, time limit on exercise. [1927 c 255 § 124; RRS § 7797-124. Prior: 1899 c 83 § 1; 1897 c 89 § 51. Formerly RCW 79.16.370.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.504 Authority to lease tidelands and harbor areas—Conditions. [1927 c 255 § 126; RRS § 7797-126. Prior: 1923 c 171 § 1. Formerly RCW 79.16.020.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.508 Terms of leases. [1927 c 255 § 127; RRS § 7797-127. Prior: 1923 c 171 § 2. Formerly RCW 79.16.030.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.512 Construction or extension of docks, wharves, etc.—New lease. [1969 ex.s. c 97 § 1; 1927 c 255 § 128; RRS § 7797-128. Prior: 1923 c 171 § 3. Formerly RCW 79.16.040.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.516 Re-leases of harbor areas. [1969 ex.s. c 97 § 2; 1927 c 255 § 129; RRS § 7797-129. Prior: 1923 c 171 § 4. Formerly RCW 79.16.050.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.520 Department's valuation of harbor areas prior to lease, renewal, or re-lease—Appeal. [1979 ex.s. c 97 § 1; 1969 ex.s. c 97 § 3; 1927 c 255 § 130; RRS § 7797-130. Prior: 1923 c 171 § 5. Formerly RCW 79.16.060.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.521 Rules for lease of harbor areas. [1979 ex.s. c 97 § 3.] Decodified pursuant to 1982 1st ex.s. c 21 § 180, effective July 1, 1983.

79.01.524 Procedure to re-lease harbor areas. [1927 c 255 § 131; RRS § 7797-131. Prior: 1923 c 171 § 6. Formerly RCW 79.16.070.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.528 Regulation of wharfage, dockage and other tolls. [1927 c 255 § 132; RRS § 7797-132. Prior: 1923 c 171 § 7. Formerly RCW 79.16.080.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.532 "Person" defined. [1927 c 255 § 133; RRS § 7797-133. Prior: 1923 c 171 § 8. Formerly RCW 79.16.010.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.536 Lease of unplatted first class tide or shore lands for booming purposes. [1927 c 255 § 134; RRS § 7797-134. Prior: 1923 c 29 § 1; 1921 c 118 §§ 1, 2. Formerly RCW 79.16.090.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.540 Lease of second class tide or shore lands for booming purposes. [1927 c 255 § 135; RRS § 7797-135. Prior: 1917 c 148 § 12; 1911 c 86 § 1; 1907 c 233 § 1. Formerly RCW 79.16.100.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.544 Lease of platted shorelands. [1927 c 255 § 136; RRS § 7797-136. Prior: 1899 c 86 § 2; 1897 c 89 § 50. Formerly RCW 79.16.110.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.548 Failure to purchase or re-lease tide or shore lands—Appraisal of improvements. [1927 c 255 § 137; RRS § 7797-137. Prior: 1905 c 173 §§ 1 through 3. Formerly RCW 79.16.120.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.552 Sale of small tracts adjoining oyster lands—Procedure—Reversion. [1927 c 255 § 138; RRS § 7797-138. Prior: 1919 c 165 §§ 1 through 3. Formerly RCW 79.20.120.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.556 Contract in lieu of deed to small oyster tracts. [1927 c 255 § 139; RRS § 7797-139. Prior: 1919 c 165 §§ 4, 5. Formerly RCW 79.20.130.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.560 Sale of reserved or reversionary rights in tidelands. [1927 c 255 § 140; RRS § 7797-140. Prior: 1925 ex.s. c 190 §§ 1, 2. Formerly RCW 79.20.140.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.564 Location of line dividing tidelands from shorelands in tidal rivers. [1927 c 255 § 141; RRS § 7797-141. Formerly RCW 43.12.090.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.568 Leasing beds of tidal waters for shellfish cultivation or other aquaculture use. [1979 ex.s. c 123 § 1; 1967 c 228 § 1; 1963 c 79 § 1; 1961 c 73 § 9; 1951 c 271 § 39; 1927 c 255 § 142; RRS § 7797-142. Prior: 1899 c 136 § 1. Formerly RCW 79.20.010.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.570 Geoduck harvesting—Leases, agreements, regulation. [1979 ex.s. c 141 § 8.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.572 Leasing for oyster beds, cultivating clams or other shellfish—Who may lease—Application—Deposit. [1967 c 163 § 5; 1927 c 255 § 143; RRS § 7797-143. Prior: 1899 c 136 §§ 3, 5. Formerly RCW 79.20.020.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.576 Leasing for oyster beds, cultivating clams or other shellfish—Inspection and report by director of fisheries—Rental and term. [1967 c 228 § 3; 1951 c 271 § 40; 1927 c 255 § 144. Prior: 1927 c 255 §§ 145, 147; 1923 c 59 § 1; 1899 c 136 §§ 3, 4. Formerly RCW 79.20.030.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.580 Leasing for oyster beds, cultivating clams or other shellfish—Survey and boundary markers. [1951 c 271 § 41 (adding a new section to 1927 c 255). Formerly RCW 79.20.035.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.584 Leasing for oyster beds, cultivating clams or other shellfish—Renewal lease. [1967 c 228 § 4; 1927 c 255 § 146; RRS § 7797-146. Prior: 1923 c 59 § 1. Formerly RCW 79.20.050.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.588 Leasing for oyster beds, cultivating clams or other shellfish—Reversion for use other than cultivation of shellfish. [1967 c 228 § 5; 1927 c 255 § 148; RRS § 7797-148. Prior: 1899 c 136 § 7. Formerly RCW 79.20.070.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.592 Leasing for oyster beds, cultivating clams or other shellfish—Abandonment—Application for other lands. [1967 c 228 § 6; 1927 c 255 § 149; RRS § 7797-149. Prior: 1899 c 136 § 10. Formerly RCW 79.20.080.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.596 Use of tide and shore lands granted to United States—Purposes—Limitations. [1927 c 255 § 150; RRS § 7797-150. Prior: 1909 c 110 § 1; 1890 p 428 § 1. Formerly RCW 79.32.010.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.600 Use of tide and shore lands granted to United States—Application—Proof of upland use—Conveyance. [1927 c 255 § 151; RRS § 7797-151. Prior: 1909 c 110 § 2. Formerly RCW 79.32.020.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.604 Use of tide and shore lands granted to United States—Easements over tide or shore lands to United States. [1927 c 255 § 152; RRS § 7797-152. Prior: 1909 c 110 § 3. Formerly RCW 79.32.030.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.608 Use of tide and shore lands granted to United States—Reversion on cessation of use. [1927 c 255 § 153; RRS § 7797-153. Prior: 1909 c 110 § 4. Formerly RCW 79.32.040.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.716 Distraint or sale of improvements for taxes. [1927 c 255 § 189; RRS § 7797-189. Prior: 1897 c 89 § 61. Formerly RCW 79.16.420.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.786 Toutle, Coweeman, and Cowlitz rivers dredge spoils—Legislative findings. [1981 c 275 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.01.788 Toutle, Coweeman, and Cowlitz rivers dredge spoils—Disposal. [1981 c 275 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

Chapter 79.16

TIDELANDS, SHORELANDS, AND HARBOR AREAS

79.16.130 Queets to Flattery tidelands declared public highway. [1935 c 54 § 1; RRS § 6402-31.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.140 Queets to Flattery tidelands declared public highway—Reservation from sale or lease. [1959 c 168 § 1; 1935 c 54 § 2; RRS § 6402-32.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.150 Queets to Flattery tidelands declared public highway—Leases not to be extended. [1959 c 168 § 2; 1935 c 54 § 3; RRS § 6402-33.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.160 Damon's Point to Queets tidelands declared public highway. [1901 c 105 § 1; no RRS. FORMER PART OF SECTION: 1901 c 105 § 2 now codified as RCW 79.16.161.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.161 Damon's Point to Queets tidelands declared public highway—Reservation from sale, lease, etc. [1901 c 105 § 2; no RRS. Formerly RCW 79.16.160, part.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.170 Columbia river to Peterson's Point tidelands declared public highway. [1901 c 110 § 1; no RRS. FORMER PART OF SECTION: 1901 c 110 § 2 now codified as RCW 79.16.171.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.171 Columbia river to Peterson's Point tidelands declared public highway—Reservation from sale, lease, etc. [1901 c 110 § 2; no RRS. Formerly RCW 79.16.170, part.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.172 Highways established by RCW 79.16.130-79.16.171—Portion declared public recreation area—Reservation. [1963 c 212 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.173 Highways established by RCW 79.16.130-79.16.171—Acquisition of property. [1963 c 212 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.175 Certain tidelands reserved for recreational use and taking of fish and shellfish. [1955 c 387 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.176 Certain tidelands reserved for recreational use and taking of fish and shellfish—Access to and from tidelands. [1955 c 387 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.180 Disposition of rentals from harbor areas and tidelands. [1967 ex.s. c 105 § 2; 1937 c 115 § 1; 1913 c 170 § 1; RRS § 8016.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.190 Permits to use waterways. [1913 c 168 § 1; RRS § 8017.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.325 Day Island Waterway—Vacation—Relocation of harbor lines. [1955 c 199 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.326 Day Island Waterway—Area vacated to be platted as tideland—Sale. [1955 c 199 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.375 Sale of state-owned tide or shore lands to municipal corporation or state agency. [1957 c 186 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.376 Sale of state-owned tide or shore lands to municipal corporation or state agency—Authority to execute agreements, deeds, etc. [1957 c 186 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.380 Boundary of shorelands when water lowered—Certain shorelands granted to city of Seattle. [1913 c 183 § 1; RRS § 9733. Formerly RCW 79.16.380 and 79.16.390.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.400 Selection for slips, docks, wharves, etc. [1979 ex.s. c 30 § 17; 1913 c 183 § 2; RRS § 9734.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.405 Platting of certain shorelands of Lake Washington for use as harbor area—Effect. [1917 c 150 § 1; RRS § 9601.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.406 Platting of certain shorelands of Lake Washington for use as harbor area—Selection for slips, docks, wharves, etc.—Vesting of title. [1917 c 150 § 2; RRS § 9602.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.410 Street slopes on tide or shore lands. [1931 c 70 § 1; RRS § 8009-1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.430 Excavation of waterways through state lands—Filling of tide and shore lands—Contract—Lien—Bond—Lands affected. [1893 c 99 § 1; RRS § 9603.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.440 Excavation of waterways through state lands—Requisites of excavation contract. [1893 c 99 § 2; RRS § 9604.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.450 Excavation of waterways through state lands—Time of commencement and completion. [1893 c 99 § 3; RRS § 9605.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.460 Excavation of waterways through state lands—Certificate of cost—Lien—Payment. [1893 c 99 § 4; RRS § 9606.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.470 Excavation of waterways through state lands—Notice of intention to apply—Notice of pendency of application. [1893 c 99 § 5; RRS § 9607.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.480 Excavation of waterways through state lands—Right of way granted. [1893 c 99 § 6; RRS § 9608.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.490 Excavation of waterways through state lands—Bulkheads—Minimum depth. [1893 c 99 § 7; RRS § 9609.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.500 Excavation of waterways through state lands—Apportionment of cost. [1893 c 99 § 8; RRS § 9610.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.510 Excavation of waterways through state lands—Waterways open to public—Tide gates or locks. [1893 c 99 § 9; RRS § 9611.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.520 Excavation of waterways through state lands—Appraisal of tidelands proposed to be filled. [1893 c 99 § 10; RRS § 9612.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.530 Lease of beds of navigable waters. [1953 c 164 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.540 Lease of beds of navigable waters—Terms and conditions of lease—Forfeiture for nonuser. [1953 c 164 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.550 Lease of beds of navigable waters—Improvements—Federal permit—Forfeiture—Plans and specifications. [1953 c 164 § 3.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.560 Lease of beds of navigable waters—Preference right to re-lease. [1953 c 164 § 4.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.570 Sale of rock, gravel, sand and silt. [1955 c 386 § 1.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.580 Sale of rock, gravel, sand and silt—Application—Terms of lease or contract—Bond—Payment—Reports. [1955 c 386 § 2.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.16.590 Sale of rock, gravel, sand and silt—Investigation, audit of books of person removing. [1955 c 386 § 3.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

**Chapter 79.20
OYSTER LANDS**

79.20.090 Sale or lease of tidelands set aside as oyster reserves. [1929 c 224 § 1; RRS § 7797-149a.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.20.100 Inspection and report by director of fisheries. [1929 c 224 § 2; RRS § 7797-149b.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.20.110 Vacation of reserve—Sale or lease of lands. [1933 c 76 § 1; 1929 c 224 § 3; RRS § 7797-149c.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.20.150 Resurvey and appraisalment of certain reserves. [1907 c 208 § 1; RRS § 8069.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.20.160 Resurvey and appraisalment of certain reserves—Sale of lands other than first class. [1907 c 208 § 2; RRS § 8070.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.20.170 Resurvey and appraisalment of certain reserves—Provisions concurrent. [1907 c 208 § 3; RRS § 8071.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

79.20.180 Resurvey and appraisalment of certain reserves—Disposition of proceeds from sale of land. [1907 c 208 § 4; RRS § 8072.] Repealed by 1982 1st ex.s. c 21 § 183, effective July 1, 1983.

**Title 82
EXCISE TAXES**

**Chapter 82.08
RETAIL SALES TAX**

82.08.0284 Exemptions—Sales of food products for human consumption. [1981 c 18 § 1; 1980 c 86 § 3; 1980 c 37 § 49. Formerly RCW 82.08.030(31).] Repealed by 1982 1st ex.s. c 35 § 30, effective May 1, 1982. Later enactments, see RCW 82.08.0292 and 82.08.0293.

**Chapter 82.12
USE TAX**

82.12.0278 Exemptions—Use of food products for human consumption. [1980 c 86 § 4; 1980 c 37 § 76. Formerly RCW 82.12.030(26).] Repealed by 1982 1st ex.s. c 35 § 30, effective May 1, 1982. Later enactments, see RCW 82.12.0292 and 82.12.0293.

**Chapter 82.24
TAX ON CIGARETTES**

82.24.220 Vending machines—Certificates. [1977 ex.s. c 319 § 8; 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.] Repealed by 1982 c 182 § 45.

**Title 83
INHERITANCE AND GIFT TAXES**

**Chapter 83.01
GENERAL PROVISIONS**

83.01.010 Definitions. [1979 c 107 § 13; 1967 ex.s. c 26 § 15; 1961 c 15 § 83.01.010. Prior: 1935 c 180 §§ 3, 126; RRS §§ 8370-3, 11211f.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

Chapter 83.04

**PROPERTY AND PERSONS SUBJECT TO INHERITANCE
TAX—LIEN**

83.04.010 Property subject to tax. [1979 ex.s. c 209 § 1; 1961 c 292 § 2. 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 83.04.010, part.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.013 Authorized deductions from gross value. [1979 ex.s. c 209 § 2; 1961 c 292 § 3. 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 83.04.010, part.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.015 Persons liable for taxes. [1961 c 292 § 4. 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 83.04.010, part.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.020 Joint property and deposits. [1961 c 292 § 5. 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 83.04.010, part.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.023 Lien of tax. [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.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.024 Qualified real property—Lien. [1979 ex.s. c 209 § 36.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.025 Transfers to take effect after death. [1961 c 292 § 7. 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 83.04.060.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.027 Transfer of insurance. [1961 c 292 § 8. Prior: 1961 c 15 § 83.04.010; 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 83.04.070.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.030 Property outside state. [1979 ex.s. c 209 § 4; 1961 c 292 § 9; 1961 c 15 § 83.04.030. Prior: 1901 c 55 § 3; RRS § 11203.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.040 Intangibles of nonresident. [1961 c 292 § 10; 1961 c 15 § 83.04.040. Prior: 1941 c 124 § 1; Rem. Supp. 1941 § 11201a.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.055 Transfer within three years of death. [1979 ex.s. c 209 § 5.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.04.080 Exercise or termination of power of appointment. [1979 ex.s. c 209 § 6; 1961 c 15 § 83.04.080. Prior: 1931 c 134 § 2; RRS § 11201-c.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

Chapter 83.05

TRANSFERS BY POWER OF APPOINTMENT

83.05.010 Definitions. [1975 1st ex.s. c 278 § 99; 1961 c 15 § 83.05.010. Prior: 1951 c 185 § 1. Formerly RCW 83.04.090.]

Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.020 Granting of power is transfer subject to tax, when. [1979 ex.s. c 209 § 7; 1961 c 15 § 83.05.020. Prior: 1951 c 185 § 2. Formerly RCW 83.04.100.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.030 Due date, lien, payment of tax—Valuation—Refund inures to ultimate beneficiary. [1961 c 15 § 83.05.030. Prior: 1951 c 185 § 3. Formerly RCW 83.04.110.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.040 Donee to give notice of exercise, termination of power—Liability for failure. [1975 1st ex.s. c 278 § 100; 1961 c 15 § 83.05.040. Prior: 1951 c 185 § 4. Formerly RCW 83.04.120.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.050 Bond or security for payment of tax—Alternatives. [1979 ex.s. c 209 § 20; 1975 1st ex.s. c 278 § 101; 1961 c 15 § 83.05.050. Prior: 1951 c 185 § 5. Formerly RCW 83.04.130.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.060 Refund of excess payment of tentative tax. [1975 1st ex.s. c 278 § 102; 1961 c 15 § 83.05.060. Prior: 1951 c 185 § 6. Formerly RCW 83.04.140.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.070 Tax payments—When due—Delinquencies—Interest. [1961 c 15 § 83.05.070. Prior: 1951 c 185 § 7. Formerly RCW 83.04.150.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.080 Exercise of power by granting power to another donee—Taxation. [1961 c 15 § 83.05.080. Prior: 1951 c 185 § 8. Formerly RCW 83.04.160.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.05.090 Powers granted before June 7, 1951—Taxation. [1961 c 15 § 83.05.090. Prior: 1951 c 185 § 9. Formerly RCW 83.04.170.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

Chapter 83.08

INHERITANCE TAX RATES

83.08.005 Definitions. [1979 ex.s. c 209 § 11.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.010 Tax imposed. [1961 c 15 § 83.08.010. Prior: 1953 c 138 § 1; 1943 c 277 § 1, part; 1939 c 202 § 1, part; 1931 c 134 § 3, part; 1929 c 205 § 1, part; 1923 c 119 § 1, part; 1917 c 43 § 1, part; 1911 c 19 § 2, part; 1907 c 217 § 2, part; 1901 c 55 § 2, part; Rem. Supp. 1943 § 11202, part.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.015 Class A rates—Exemptions. [1979 ex.s. c 209 § 12.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.018 Class A exemptions under RCW 83.08.015(2) after 1979. [1979 ex.s. c 209 § 13.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.025 Class A exemption for community property. [1979 ex.s. c 209 § 14.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.035 Class B rates—Exemption. [1979 ex.s. c 209 § 15.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.045 Class C rates. [1979 ex.s. c 209 § 16.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.050 Classification of testamentary trusts. [1979 ex.s. c 209 § 8; 1961 c 15 § 83.08.050. Prior: 1943 c 277 § 1, part; 1939 c 202 § 1, part; 1931 c 134 § 3, part; 1929 c 205 § 1, part; 1923 c 119 § 1, part; 1917 c 43 § 1, part; 1911 c 19 § 2, part; 1907 c 217 § 2, part; 1901 c 55 § 2, part; Rem. Supp. 1943 § 11202, part.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.060 Apportionment between classes and beneficiaries. [1961 c 15 § 83.08.060. Prior: 1943 c 277 § 1, part; 1939 c 202 § 1, part; 1931 c 134 § 3, part; 1929 c 205 § 1, part; 1923 c 119 § 1, part; 1917 c 43 §

1, part; 1911 c 19 § 2, part; 1907 c 217 § 2, part; 1901 c 55 § 2, part; Rem. Supp. 1943 § 11202, part.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.08.070 Computation of tax under good faith compromise. [1979 ex.s. c 209 § 25.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

Chapter 83.12

ALIEN ESTATES AND RECIPROCITY WITH OTHER STATES

83.12.010 Taxes due other states. [1961 c 15 § 83.12.010. Prior: 1939 c 202 § 3(107o); 1935 c 180 § 107(o); RRS § 11202-1o.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.12.020 Exemptions prorated. [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.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.12.030 No exemption to alien estates. [1961 c 15 § 83.12.030. Prior: 1939 c 202 § 3(107p); 1935 c 180 § 107(p); RRS § 11202-1p.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

Chapter 83.14

SETTLEMENT OF DEATH TAX DISPUTES WITH OTHER STATES

83.14.010 Definitions. [1975 1st ex.s. c 278 § 104; 1961 c 15 § 83.14.010. Prior: 1959 c 46 § 1.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.14.020 Procedure to invoke chapter. [1961 c 15 § 83.14.020. Prior: 1959 c 46 § 2.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.14.030 Agreement for amount in full payment. [1975 1st ex.s. c 278 § 105; 1961 c 15 § 83.14.030. Prior: 1959 c 46 § 3.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.14.040 Board of arbitration—Powers and duties—Procedure—Compensation—Expenses. [1975 1st ex.s. c 278 § 106; 1961 c 15 § 83.14.040. Prior: 1959 c 46 § 4.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.14.050 Agreement for amount in full payment after proceedings commenced—Assessments—Additional amounts due. [1975 1st ex.s. c 278 § 107; 1961 c 15 § 83.14.050. Prior: 1959 c 46 § 5.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.14.060 Interest for nonpayment when decedent domiciled in state. [1961 c 15 § 83.14.060. Prior: 1959 c 46 § 6.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.14.070 Application of chapter. [1961 c 15 § 83.14.070. Prior: 1959 c 46 § 7.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

Chapter 83.16

VALUATIONS, CREDITS, AND EXEMPTIONS

83.16.010 Property appraised at fair market value. [1979 ex.s. c 209 § 37; 1961 c 15 § 83.16.010. Prior: 1957 c 285 § 2; 1939 c 202 § 10; 1931 c 134 § 7; RRS § 11211a.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.16.020 Estates for life—Vested remainders. [1979 ex.s. c 209 § 9; 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.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.16.025 Estate consisting of trust with life estate and remainder—Invasion of corpus—Reduction of deferred tax, security. [1973 1st ex.s. c 127 § 1.] Repealed by 1981 2nd ex.s. c 7 § 83.100.160, effective January 1, 1982.

83.16.030 Contingent remainders. [1961 c 15 § 83.16.030. Prior: 1939 c 202 § 7; 1929 c 205 § 2; 1917 c 146 § 4; RRS § 11206.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.060 Credit for gift tax paid. [1961 c 15 § 83.16.060. Prior: 1941 c 124 § 2; Rem. Supp. 1941 § 11202b.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.070 Property previously taxed. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.080 Insurance taxable—Lien—Payment of proceeds. [1979 ex.s. c 209 § 10; 1979 c 107 § 14; 1961 c 292 § 11; 1961 c 15 § 83.16.080. Prior: 1939 c 202 § 5; 1935 c 80 § 115; RRS § 11211b. 1957 c 280 § 2 was nullified by Referendum No. 30.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.090 War risk insurance exempt. [1961 c 15 § 83.16.090. Prior: 1929 c 135 § 2; RRS § 11201-2.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.100 Use valuation of qualified real property—Limitation. [1979 ex.s. c 209 § 26.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.105 Use valuation of qualified real property—Definitions. [1979 ex.s. c 209 § 27.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.110 Use valuation of qualified real property—Disposition or cessation of use—When—Additional tax imposed—Amount—When payable—Bond. [1979 ex.s. c 209 § 28.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.115 Use valuation of qualified real property—Time and manner of election—Written agreement. [1979 ex.s. c 209 § 29.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.120 Use valuation of qualified real property—Definitions—Determination of maximum amount of additional tax. [1979 ex.s. c 209 § 30.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.125 Use valuation of qualified real property—Valuation. [1979 ex.s. c 209 § 31.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.130 Use valuation of qualified real property—Assessment period for additional tax—Notice of disposition or cessation of use. [1979 ex.s. c 209 § 32.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.135 Use valuation of qualified real property—Involuntary conversion of interest. [1979 ex.s. c 209 § 33.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.140 Use valuation of qualified real property—Application of RCW 83.16.100 through 83.16.140 and 83.04.024 to interest in partnership, corporation, or trust—Rules. [1979 ex.s. c 209 § 34.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.16.145 Current use valuation for federal and/or state purposes—Effect. [1979 ex.s. c 209 § 35.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.20

LEGACIES, TRANSFERS, PENSION BENEFITS—EXEMPTIONS

83.20.010 Legacies and transfers to certain entities. [1979 ex.s. c 209 § 40; 1961 c 15 § 83.20.010. Prior: 1949 c 140 § 1; 1943 c 224 § 1; 1941 c 197 § 1; 1939 c 202 § 11; 1931 c 134 § 8; 1931 c 124 § 1; 1921 c 51 § 1; 1917 c 146 § 6; 1905 c 93 § 1; Rem. Supp. 1949 § 11218.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.20.015 Pension and retirement plans. [1979 ex.s. c 209 § 23.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.24

DETERMINATION OF TAX WITHOUT PROBATE

83.24.010 Determination of tax without administration. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.24.020 Determination of tax without administration—Judicial appeal. [1979 c 107 § 15; 1971 c 81 § 149; 1961 c 292 § 13. Prior: 1961 c 15 § 83.24.010, part; prior: 1929 c 205 § 4, part; 1917 c 146 § 5, part; RRS § 11216, part. Formerly RCW 83.24.020, 83.24.030.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.24.025 Determination of tax without administration—Appeal to board of tax appeals. [1979 ex.s. c 209 § 51.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.24.035 Allowable deductions. [1979 ex.s. c 209 § 3; 1972 ex.s. c 73 § 1.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.28

PROCEDURE TO FIX TAX ON ESTATE

83.28.010 Powers of department of revenue and director. [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-la.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.28.020 Examination by department of revenue. [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-lb.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.28.030 Findings filed in court. [1979 c 107 § 16; 1961 c 15 § 83.28.030. Prior: 1939 c 202 § 3(107c); 1935 c 180 § 107(c); RRS § 11202-lc.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.28.040 Clerk to give notice of findings. [1961 c 15 § 83.28.040. Prior: 1939 c 202 § 3(107d); 1935 c 180 § 107(d); RRS § 11202-lc.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.28.050 Court order. [1961 c 15 § 83.28.050. Prior: 1939 c 202 § 3(107e); 1935 c 180 § 107(e); RRS § 11202-le.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.28.060 Objections. [1979 c 107 § 17; 1961 c 15 § 83.28.060. Prior: 1939 c 202 § 3(107f); 1935 c 180 § 107(f); RRS § 11202-lf.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.28.070 Hearing by court. [1979 c 107 § 18; 1961 c 15 § 83.28.070. Prior: 1939 c 202 § 3(107g); 1935 c 180 § 107(g); RRS § 11202-lg.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.32

PROCEDURE TO FIX TAX ON PROPERTY PREVIOUSLY TRANSFERRED

83.32.010 Citation by department of revenue. [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-lh.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.32.020 Examination by director or agent—Subpoenas. [1979 c 107 § 19; 1961 c 292 § 15. Prior: 1961 c 15 § 83.32.020, part; prior: 1909 c 202 § 3(107i), part; 1935 c 180 § 107(i), part; RRS § 11202-li, part.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.32.030 Findings filed in court. [1979 c 107 § 20; 1961 c 292 § 16. Prior: 1961 c 15 § 83.32.020, part; prior: 1909 c 202 § 3(107i), part; 1935 c 180 § 107(i), part; RRS § 11202-li, part.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.32.040 Subsequent proceedings same as procedure to fix tax on estate. [1961 c 292 § 17. Prior: 1961 c 15 § 83.32.020, part; prior: 1909 c 202 § 3(107i), part; 1935 c 180 § 107(i), part; RRS § 11202-li, part.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.32.050 Judgment in favor of state. [1979 c 107 § 21; 1971 c 81 § 150; 1961 c 15 § 83.32.050. Prior: 1945 c 184 § 3; 1939 c 202 §

3(107j); 1935 c 180 § 107(j); Rem. Supp. 1945 § 11202-1j.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.36

DEPARTMENT OF REVENUE'S POWERS

83.36.005 Adoption of provisions of chapter 82.01 RCW. [1961 c 15 § 83.36.005.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.36.010 Powers in general. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.36.020 Examination of books and documents—Secrecy enjoined—Penalty. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.36.030 Access to books and records. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.36.040 List of heirs. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.36.050 Copies of reports and papers by fiduciaries. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.36.060 Notice of transfer of real estate by trustees, executors and administrators. [1975 1st ex.s. c 278 § 119; 1961 c 15 § 83.36.060. Prior: 1935 c 180 § 121; RRS § 11211c.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.40

ADJUSTMENTS WITH FEDERAL TAX

83.40.010 Absorption of federal estate tax credit. [1979 ex.s. c 209 § 41; 1961 c 292 § 19. Prior: 1961 c 15 § 83.40.010, part; prior: 1931 c 134 § 5, part; RRS § 11202-b, part.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.40.020 Copy of federal return and inventory to be filed, supplements and amendments. [1979 c 107 § 22; 1971 ex.s. c 132 § 2; 1961 c 292 § 20. Prior: 1961 c 15 § 83.40.010, part; prior: 1931 c 134 § 5, part; RRS § 11202-b, part.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.40.030 Copy of corrected federal return and inventory to be filed. [1979 c 107 § 23; 1961 c 292 § 21. Prior: 1961 c 15 § 83.40.010, part; prior: 1931 c 134 § 5, part; RRS § 11202-b, part.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.40.040 Valuation to be adjusted according to federal appraisal. [1979 ex.s. c 209 § 38; 1963 ex.s. c 28 § 12; 1961 c 15 § 83.40.040. Prior: 1939 c 202 § 3(107i); 1935 c 180 § 107(i); RRS § 11202-1.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.44

PAYMENT OF INHERITANCE TAX--ENFORCEMENT--COMPROMISE

83.44.010 Taxes when due--Interest. [1979 ex.s. c 209 § 22; 1971 ex.s. c 132 § 1; 1967 ex.s. c 149 § 29; 1961 c 15 § 83.44.010. Prior: 1959 c 296 § 1; prior: (i) 1945 c 184 § 4; 1939 c 202 § 4; 1917 c 146 § 3; 1907 c 217 § 7; 1901 c 55 § 12; Rem. Supp. 1945 § 11210. (ii) 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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.025 Extension of time for reasonable cause. [1979 ex.s. c 209 § 24.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.030 Tax on corporate stock--How paid. [1975 1st ex.s. c 278 § 120; 1961 c 15 § 83.44.030. Prior: 1907 c 217 § 8; 1901 c 55 § 14; RRS § 11212.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.040 Devise or bequest to fiduciary in lieu of commission--Excess liable to tax. [1975 1st ex.s. c 278 § 121; 1961 c 15 § 83.44.040. Prior: 1907 c 217 § 5; 1901 c 55 § 9; RRS § 12207.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.050 When legatee or devisee must pay tax--Lien. [1975 1st ex.s. c 278 § 122; 1961 c 15 § 83.44.050. Prior: 1907 c 217 § 6; 1901 c 55 § 10; RRS § 11208.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.060 Fiduciaries must deduct or collect tax--Withholding delivery of legacy or property. [1961 c 15 § 83.44.060. Prior: 1901 c 55 § 11; RRS § 11209.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.070 Compromise when liability doubtful. [1975 1st ex.s. c 278 § 123; 1961 c 15 § 83.44.070. Prior: 1907 c 217 § 9; 1901 c 55 § 17; RRS § 11215.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.080 Interest paid on refunds--Demand for refund. [1979 ex.s. c 209 § 21; 1969 c 73 § 1; 1961 c 15 § 83.44.080. Prior: 1931 c 134 § 6; RRS § 11210-a.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.100 Disposition of money received. [1961 c 15 § 83.44.100. Prior: 1945 c 249 § 10; 1943 c 156 § 12a; 1935 c 180 § 211; Rem. Supp. 1945 § 8370-211.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.44.110 No decree of distribution or discharge of fiduciary from liability until tax paid. [1979 c 107 § 24; 1961 c 292 § 22; 1961 c 15 § 83.44.110. Prior: 1947 c 21 § 1; 1939 c 202 § 3(107n); 1935 c 180 § 107(n); Rem. Supp. 1947 § 11202-1n. Formerly RCW 83.52.010.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.48

QUIETING TITLE AGAINST TAX LIABILITY

83.48.010 Actions authorized--Procedure. [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.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.52

VIOLATIONS AND PENALTIES

83.52.020 Fraudulent practices--Concealment--Penalty. [1961 c 15 § 83.52.020. Prior: 1929 c 205 § 6; RRS § 11216-1.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.58

GIFT TAXES

83.58.010 Definitions. [1979 ex.s. c 210 § 1.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.020 Tax imposed--Transfers subject to tax. [1979 ex.s. c 210 § 2.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.030 Computation of tax--Exemption--Rates. [1979 ex.s. c 210 § 3.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.040 Annual exclusion of three thousand dollars. [1979 ex.s. c 210 § 4.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.050 Valuation of property other than money--Transfer for inadequate consideration. [1979 ex.s. c 210 § 5.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.060 Transfer of community property--Transfer of separate property. [1979 ex.s. c 210 § 6.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.070 Exemptions--Gifts to certain entities. [1979 ex.s. c 210 § 7.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.080 Returns--Form--Filing--Payment of tax--Disposition of revenue--Persons required to keep records and make returns--Filing of corrected federal gift tax return--Corrected valuation. [1979 ex.s. c 210 § 8.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.090 Disclaimer of interest. [1979 ex.s. c 210 § 9.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.100 Transfers not subject to tax--Retirement and pension plans, trusts, and annuity contracts. [1979 ex.s. c 210 § 10.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.110 Disallowance of exemption and credit--Nonresident donor. [1979 ex.s. c 210 § 11.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.120 Incorrect return or failure to file return--Computation letter--Determination letter--Determination of tax liability by court action--Waiver of restrictions. [1979 ex.s. c 210 § 12.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.130 Notice of lien of tax--Filing--Effect. [1979 ex.s. c 210 § 13.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.140 Interest on unpaid tax--Waiver or elimination of interest. [1979 ex.s. c 210 § 14.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.150 Mailing of determination letter--Statute of limitations. [1979 ex.s. c 210 § 15.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.160 Overpayment of tax--Credit--Refund--Limitations. [1979 ex.s. c 210 § 16.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.170 Failure to make and file return--Penalty--Exception--Collection. [1979 ex.s. c 210 § 17.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.180 Gift tax fraud--Criminal penalty. [1979 ex.s. c 210 § 18.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.190 Rule-making authority. [1979 ex.s. c 210 § 19.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.900 Short title. [1979 ex.s. c 210 § 20.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.58.901 Severability--1979 ex.s. c 210. [1979 ex.s. c 210 § 21.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.60

GIFTS OF POWERS OF APPOINTMENT

83.60.010 Definitions. [1975 1st ex.s. c 278 § 143; 1961 c 15 § 83.60.010. Prior: 1951 c 185 § 10. Formerly RCW 83.56.031.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.60.020 Transfer subject to gift tax, when. [1961 c 15 § 83.60.020. Prior: 1951 c 185 § 11. Formerly RCW 83.56.032.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.60.030 Due date, lien, payment of tax--Valuation--Refund inures to ultimate beneficiary. [1961 c 15 § 83.60.030. Prior: 1951 c 185 § 12. Formerly RCW 83.56.033.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.60.040 Donee to give notice of exercise, termination of power--Liability for failure. [1975 1st ex.s. c 278 § 144; 1961 c 15 § 83.60.040. Prior: 1951 c 185 § 13. Formerly RCW 83.56.034.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.60.050 Bond or security for payment of tax--Alternatives. [1975 1st ex.s. c 278 § 145; 1961 c 15 § 83.60.050. Prior: 1951 c 185 § 14. Formerly RCW 83.56.035.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.60.060 Refund of excess payment of tentative tax. [1975 1st ex.s. c 278 § 146; 1961 c 15 § 83.60.060. Prior: 1951 c 185 § 15. Formerly RCW 83.56.036.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.60.070 Tax payments--When due--Delinquencies--Interest. [1961 c 15 § 83.60.070. Prior: 1951 c 185 § 16. Formerly RCW 83.56.037.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.60.080 Exercise of power by granting power to another donee--Taxation. [1961 c 15 § 83.60.080. Prior: 1951 c 185 § 17. Formerly RCW 83.56.038.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Chapter 83.98 CONSTRUCTION

83.98.010 Continuation of existing law. [1961 c 15 § 83.98.010.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.98.020 Title, chapter, section headings not part of law. [1961 c 15 § 83.98.020.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.98.030 Invalidity of part of title not to affect remainder. [1961 c 15 § 83.98.030.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.98.040 Repeals and saving. [1961 c 15 § 83.98.040.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

83.98.050 Emergency--1961 c 15. [1961 c 15 § 83.98.050.] Repealed by 1981 2nd ex.s. c 7 § 82.100.160, effective January 1, 1982.

Title 1 GENERAL PROVISIONS

Chapters

- 1.08 Statute law committee**
(Code reviser).
1.12 Rules of construction.
1.30 Law revision commission.

Chapter 1.08

STATUTE LAW COMMITTEE (CODE REVISER)

Sections

- 1.08.060 Loans and exchanges of codes and supplements.

1.08.060 Loans and exchanges of codes and supplements. The committee may loan sets of the code and materials supplemental thereto

(1) for the use of senate committees, a quantity as required by advice from the secretary of the senate, not to exceed twenty-five sets;

(2) for use of the house committees, a quantity as required by advice from the chief clerk of the house, not to exceed thirty-five sets;

(3) to the state law library for library use;

(4) for use of the reviser's office, as required;

(5) for use of recognized news reporting services maintaining permanent offices at the capitol, three sets.

The committee may exchange copies of RCW for codes or compilations of other states. [1982 1st ex.s. c 32 § 6; 1953 c 257 § 10.]

Chapter 1.12

RULES OF CONSTRUCTION

Sections

- 1.12.028 Construction of statutes—Internal references as including amendments thereto.

1.12.028 Construction of statutes—Internal references as including amendments thereto. If a statute refers to another statute of this state, the reference includes any amendments to the referenced statute unless a contrary intent is clearly expressed. [1982 c 16 § 1.]

Chapter 1.30

LAW REVISION COMMISSION

Sections

- 1.30.010 Legislative declaration.
1.30.020 Commission created—Membership.
1.30.030 Members' terms—Expiration—Vacancies.
1.30.040 Duties of commission.
1.30.050 Chairman—Adoption of rules.
1.30.060 Coordination of commission activities.

Personnel of commission exempt from state civil service law: RCW 41.06.083.

1.30.010 Legislative declaration. The legislature finds and declares that to secure the better administration of justice it is in the public interest to establish a law revision commission and thereby to: (1) Provide facilities and procedures to undertake the scholarly investigation of the law; (2) recommend to the legislature elimination of antiquated and inequitable rules of law and removal of other defects or anachronisms in the law; and (3) encourage the clarification and simplification of the law in Washington and to promote its better adaptation to modern conditions. [1982 c 183 § 1.]

1.30.020 Commission created—Membership. There is created the Washington law revision commission consisting of thirteen members as follows:

(1) Two senators, ex officio, to be designated by the president of the senate, and not members of the same political party;

(2) Two representatives, ex officio, to be designated by the speaker of the house of representatives, and not members of the same political party;

(3) Three deans of accredited law schools of this state, ex officio, or their designees from members of their respective law faculties;

(4) Four lawyers admitted to practice in this state, designated by the board of governors of the Washington state bar association;

(5) Two nonlawyer members with a demonstrated interest in the work of the commission, appointed by the governor. [1982 c 183 § 2.]

1.30.030 Members' terms—Expiration—Vacancies. The terms of the members designated by the state bar association and the governor shall be for four years. Of the initial members designated by the state bar association, the terms of two members shall expire June 30, 1984, and the terms of two members shall expire June 30, 1986. Of the initial members designated by the governor, the term of one member shall expire June 30, 1984, and the term of one member shall expire June 30, 1986. The terms of the legislative members of the commission shall be two years, from July 1 following the adjournment of the regular session of the legislature in each odd-numbered year starting in 1983 and to and including the thirtieth day of June in the succeeding odd-numbered year. The term of any member designated by a law school dean shall be at the pleasure of the dean.

The term of any ex officio member shall expire upon expiration of tenure of the position by virtue of which he or she is a member of the commission. Vacancies shall be filled in the same manner as for the member so vacating, and if a vacancy results other than from expiration of a term, the vacancy shall be filled for the unexpired term. [1982 c 183 § 3.]

1.30.040 Duties of commission. It shall be the duty of the law revision commission:

(1) To examine the common law and statutes of the state and current judicial decisions for the purpose of

discovering defects and anachronisms in the law, surveying alternative remedies, and recommending needed reforms.

(2) To receive and consider proposed changes in the law recommended by the American law institute, the commissioners for the promotion of uniformity of legislation in the United States, any bar association, or other learned bodies.

(3) To receive and consider suggestions from judges, justices, public officials, lawyers, and the public generally as to defects and anachronisms in the law.

(4) To recommend, from time to time, such changes in the law as it deems necessary to modify or eliminate antiquated and inequitable rules of law, and to bring the law of this state, civil and criminal, into harmony with modern conditions.

(5) To recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the supreme court of the state or the supreme court of the United States.

(6) To promote utilization of sound principles of legal drafting to achieve clarity and precision in legal documents and in the statutory law and administrative rules and regulations.

(7) To report its proceedings annually to the legislature on or before January 15, and, if it deems advisable, to accompany its report with proposed legislation to carry out any of its recommendations. [1982 c 183 § 4.]

1.30.050 Chairman—Adoption of rules. The commission shall from time to time elect a chairman from among its members and adopt rules to govern its procedures. [1982 c 183 § 5.]

1.30.060 Coordination of commission activities. The commission shall confer and coordinate its activities with any committees of the legislature, the state bar association, the uniform law commission, the statute law committee, or the judicial council so as to most efficiently accomplish its functions. [1982 c 183 § 9.]

Judicial council: Chapter 2.52 RCW.

State bar association: Chapter 2.48 RCW.

Statute law committee: Chapter 1.08 RCW.

Uniform legislation commission: Chapter 43.56 RCW.

Title 2 COURTS OF RECORD

Chapters

- 2.04** Supreme court.
- 2.08** Superior courts.
- 2.10** Judicial retirement system.
- 2.12** Retirement of judges—Retirement system.
- 2.48** State bar act.
- 2.56** Administrator for the courts.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 2.04 SUPREME COURT

Sections

- 2.04.240 Judges pro tempore—Declaration of policy—Oath of office.
- 2.04.250 Judges pro tempore—Remuneration.

2.04.240 Judges pro tempore—Declaration of policy—Oath of office. (1) *Declaration of policy.* Whenever necessary for the prompt and orderly administration of justice, as authorized and empowered by Article IV, section 2(a), Amendment 38, of the state Constitution, a majority of the supreme court may appoint any regularly elected and qualified judge of the court of appeals or the superior court or any retired judge of a court of record in this state to serve as judge pro tempore of the supreme court.

(2) Before entering upon his duties as judge pro tempore of the supreme court, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution. [1982 c 72 § 1; 1963 c 40 § 1.]

Rules of court: SAR 21.

2.04.250 Judges pro tempore—Remuneration. (1) A judge of the court of appeals or of the superior court serving as a judge pro tempore of the supreme court as provided in RCW 2.04.240, as now or hereafter amended, shall receive, in addition to his regular salary, reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended.

(2) A retired judge of a court of record in this state serving as a judge pro tempore of the supreme court as provided in RCW 2.04.240 shall receive, in addition to any retirement pay he may be receiving, the following compensation and expenses:

(a) Reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended.

(b) During the period of his service as a judge pro tempore, an amount equal to the salary of a regularly elected judge of the court in which he last served for such period diminished by the amount of retirement pay accrued to him for such period.

(3) Whenever a superior court judge is appointed to serve as judge pro tempore of the supreme court and a visiting judge is assigned to replace him, subsistence, lodging, and travel expenses incurred by such visiting judge as a result of such assignment shall be paid in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended, upon application of such judge from the appropriation of the supreme court.

(4) The provisions of RCW 2.04.240 and 2.04.250 shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension

system by any judge or his dependents. [1982 c 72 § 2; 1981 c 186 § 1; 1963 c 40 § 2.]

Chapter 2.08

SUPERIOR COURTS

Sections

2.08.064 Judges—Benton, Franklin, Clallam, Jefferson, Snohomish, Asotin, Columbia, Garfield, Cowlitz, Klickitat, and Skamania counties.

2.08.064 Judges—Benton, Franklin, Clallam, Jefferson, Snohomish, Asotin, Columbia, Garfield, Cowlitz, Klickitat, and Skamania counties. There shall be in the counties of Benton and Franklin jointly, five judges of the superior court; in the county of Clallam, two judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, eight judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, three judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court. [1982 c 139 § 2; 1981 c 65 § 1; 1979 ex.s. c 202 § 3; 1977 ex.s. c 311 § 3; 1974 ex.s. c 192 § 1; 1971 ex.s. c 83 § 3; 1969 ex.s. c 213 § 2; 1967 ex.s. c 84 § 3; 1963 c 35 § 1; 1961 c 67 § 2; 1955 c 19 § 2; 1951 c 125 § 6. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1925 ex.s. c 132 § 1; 1917 c 97 §§ 1–3; 1911 c 40 § 1; 1911 c 129 §§ 1, 2, part; 1907 c 79 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1, 3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045–1d, part; RRS § 11045–1, part.]

Additional judicial positions in Clallam and Jefferson counties subject to approval and agreement: "The additional judicial positions created by section 2 of this 1982 act in Clallam and Jefferson counties shall be effective only if, prior to April 1, 1982, each county through its duly constituted legislative authority documents its approval of the additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute." [1982 c 139 § 3.] Section 2 of this 1982 act is the amendment to RCW 2.08.064 by 1982 c 139.

Additional judicial positions in Ferry, Stevens, and Pend Oreille district subject to approval and agreement: "The additional judicial position created by this 1981 act in the joint Ferry, Stevens, and Pend Oreille judicial district shall be effective only if each county in the judicial district through its duly constituted legislative authority documents its approval of the additional position and its agreement that it and the other counties comprising the judicial district will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute. As among the counties, the amount of the judge's salary to be paid by each county shall be in accordance with RCW 2.08.110 unless otherwise agreed upon by the counties involved." [1982 c 139 § 1; 1981 c 65 § 3.]

Effective date—1977 ex.s. c 311: See note following RCW 2.08.061.

Chapter 2.10

JUDICIAL RETIREMENT SYSTEM

Sections

2.10.050 Repealed.

2.10.052 Retirement board abolished—Transfer of powers, duties, and functions.
2.10.060 Repealed.
2.10.120 Retirement for disability—Procedure.
2.10.180 Benefits exempt from taxation and judicial process—Exception—Deductions for group insurance premiums.

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

2.10.052 Retirement board abolished—Transfer of powers, duties, and functions. The Washington judicial retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 1.]

Severability—1982 c 163: "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." [1982 c 163 § 24.]

Effective date—1982 c 163: "This act shall take effect June 30, 1982." [1982 c 163 § 25.]

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

2.10.120 Retirement for disability—Procedure. (1) Any judge who has served as a judge for a period of ten or more years, and who shall believe he has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his office, may file with the retirement board an application in writing, asking for retirement. Upon receipt of such application the retirement board shall appoint one or more physicians of skill and repute, duly licensed to practice their professions in the state of Washington, who shall, within fifteen days thereafter, for such compensation as may be fixed by the board, to be paid out of the fund herein created, examine said judge and report in writing to the board their findings in the matter. If the physicians appointed by the board find the judge to be so disabled and the retirement board concurs in this finding the judge shall be retired.

(2) The retirement for disability of a judge, who has served as a judge for a period of ten or more years, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section. [1982 c 18 § 1; 1971 ex.s. c 267 § 12.]

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the Constitution of this state.

2.10.180 Benefits exempt from taxation and judicial process—Exception—Deductions for group insurance premiums. (1) The right of a person to a retirement allowance, disability allowance, or death benefit, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the

moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, or any other process of law whatsoever: *Provided*, That benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

(2) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(3) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section. [1982 1st ex.s. c 52 § 1; 1979 ex.s. c 205 § 1; 1971 ex.s. c 267 § 18.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Payment of retirement benefits pursuant to court decree or order of dissolution or legal separation—Application of act; effect of death of recipient; payment sufficient answer to claim of beneficiary against department: RCW 41.04.310–41.04.330.

Chapter 2.12

RETIREMENT OF JUDGES—RETIREMENT SYSTEM

Sections

2.12.010	Retirement for service or age.
2.12.020	Retirement for disability.
2.12.050	Judges' retirement fund—Created—Contents—Custodian—Records.
2.12.090	Benefits exempt from taxation and judicial process—Exception—Deductions for group insurance premiums.

2.12.010 Retirement for service or age. Any judge of the supreme court, court of appeals, or superior court of the state of Washington who heretofore and/or hereafter shall have served as a judge of any such courts for eighteen years in the aggregate or who shall have served ten years in the aggregate and shall have attained the age of seventy years or more may, during or at the expiration of his term of office, in accordance with the provisions of this chapter, be retired and receive the retirement pay herein provided for. In computing such term of service, there shall be counted the time spent by such judge in active service in the armed forces of the United States of America, under leave of absence from his judicial duties as provided for under chapter 201, Laws of 1941: *Provided, however*, That in computing such credit for such service in the armed forces of the United States of America no allowance shall be made for service beyond the date of the expiration of the term for which such judge was elected. Any judge desiring to retire under the provisions of this section shall file with the director of retirement systems, a notice in duplicate

in writing, verified by his affidavit, fixing a date when he desires his retirement to commence, one copy of which the director shall forthwith file with the administrator for the courts. The notice shall state his name, the court or courts of which he has served as judge, the period of service thereon and the dates of such service. [1982 1st ex.s. c 52 § 2; 1973 c 106 § 4; 1971 c 30 § 1; 1943 c 221 § 1; 1937 c 229 § 1; Rem. Supp. 1943 § 11054–1.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Construction—1971 c 30: The provisions of this 1971 amendatory act shall be construed in accordance with RCW 2.06.100 which provides for the retirement of judges of the court of appeals. [1971 c 30 § 7.] This applies to RCW 2.12.010, 2.12.012, 2.12.015, 2.12.020, 2.12.030 and 2.12.060.

Severability—1937 c 229: "If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional." [1937 c 229 § 10; RRS § 11054–10.] This applies to RCW 2.12.010, 2.12.020, 2.12.030 and 2.12.040 through 2.12.070.

2.12.020 Retirement for disability. (1) Any judge of the supreme court, court of appeals, or superior court of the state of Washington, who heretofore and/or hereafter shall have served as a judge of any such courts for a period of ten years in the aggregate, and who shall believe he has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his office, may file with the director of retirement systems an application in duplicate in writing, asking for retirement, which application shall be signed and verified by the affidavit of the applicant or by someone in his behalf and which shall set forth his name, the office then held, the court or courts of which he has served as judge, the period of service thereon, the dates of such service and the reasons why he believes himself to be, or why they believe him to be incapacitated. Upon filing of such application the director shall forthwith transmit a copy thereof to the governor who shall appoint three physicians of skill and repute, duly licensed to practice their professions in the state of Washington, who shall, within fifteen days thereafter, for such compensation as may be fixed by the governor, to be paid out of the fund hereinafter created, examine said judge and report, in writing, to the governor their findings in the matter. If a majority of such physicians shall report that in their opinion said judge has become permanently incapacitated for the full and efficient performance of the duties of his office, and if the governor shall approve such report, he shall file the report, with his approval endorsed thereon, in the office of the director and a duplicate copy thereof with the administrator for the courts, and from the date of such filing the applicant shall be deemed to have retired from office and be entitled to the benefits of this chapter to the same extent as if he had retired under the provisions of RCW 2.12.010.

(2) The retirement for disability of a judge, who has served as a judge of the supreme court, court of appeals, or superior court of the state of Washington for a period

of ten years in the aggregate, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section. [1982 1st ex.s. c 52 § 3; 1982 c 18 § 2; 1973 c 106 § 5; 1971 c 30 § 4; 1937 c 229 § 2; RRS § 11054-2.]

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the Constitution of this state.

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Construction—1971 c 30: See note following RCW 2.12.010.

2.12.050 Judges' retirement fund—Created—Contents—Custodian—Records. There is hereby created a fund in the state treasury to be known as "The Judges' Retirement Fund" which shall consist of the moneys appropriated from the general fund in the state treasury, as hereinafter provided; the deductions from salaries of judges, as hereinafter provided, all gifts, donations, bequests and devises made for the benefit of said fund, and the rents, issues and profits thereof, or proceeds of sales of assets thereof. The state treasurer shall be treasurer, ex officio, of this fund. The treasurer shall be custodian of the moneys in said judges' retirement fund. The department of retirement systems shall receive all moneys payable into said fund and make disbursements therefrom as provided in this chapter. The department shall keep written permanent records showing all receipts and disbursements of said fund. [1982 1st ex.s. c 52 § 4; 1977 c 75 § 1; 1977 c 18 § 1; 1967 c 28 § 1; 1959 c 192 § 1; 1937 c 229 § 5; RRS § 11054-5.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

2.12.090 Benefits exempt from taxation and judicial process—Exception—Deductions for group insurance premiums. (1) The right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section. [1982 1st ex.s. c 52 § 32.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Payment of retirement benefits pursuant to court decree or order of dissolution or legal separation—Application of act; effect of death of recipient; payment sufficient answer to claim of beneficiary against department: RCW 41.04.310-41.04.330.

Chapter 2.48 STATE BAR ACT

Sections

2.48.030

2.48.035

Board of governors.

Board of governors—Membership, effect of creation of new congressional districts or boundaries.

Law revision commission: Chapter 1.30 RCW.

Statute law committee, membership on: RCW 1.08.001.

2.48.030 Board of governors. There is hereby constituted a board of governors of the state bar which shall consist of not more than fifteen members, to include: The president of the state bar elected as provided by the bylaws of the association, one member from each congressional district now or hereafter existing in the state elected by secret ballot by mail by the active members residing therein, and such additional members elected as provided by the bylaws of the association. The members of the board of governors shall hold office for three years and until their successors are elected and qualified. Any vacancies in the board of governors shall be filled by the continuing members of the board until the next election, held in accordance with the bylaws of the association.

The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. [1982 1st ex.s. c 30 § 1; 1972 ex.s. c 66 § 1; 1933 c 94 § 5; RRS § 138-5.]

2.48.035 Board of governors—Membership, effect of creation of new congressional districts or boundaries.

The terms of office of members of the board of governors of the state bar who are elected from the various congressional districts shall not be affected by the creation of either new boundaries for congressional districts or additional districts. In such an event, each board member so elected may continue to serve in office for the balance of the term for which he or she was elected or appointed: *Provided*, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 2.48.030, as now or hereafter amended, by a successor who resides within the boundaries of the congressional district from which

the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this section following the creation of either new boundaries for congressional districts or additional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected. [1982 1st ex.s. c 30 § 2.]

Chapter 2.56

ADMINISTRATOR FOR THE COURTS

Sections

2.56.035 Report on crime victims compensation assessments.

2.56.035 Report on crime victims compensation assessments. Beginning in 1983, the administrator for the courts shall annually compile a report, covering the previous year, showing: (1) For each superior court district, the number of convictions and the amount of assessments paid and amount due for felonies, gross misdemeanors, and misdemeanors; (2) for each county, the number of gross misdemeanor and misdemeanor convictions in courts of limited jurisdiction and the amount of assessments paid and the amount due. This information shall be provided by class of crime (felony, gross misdemeanor, and misdemeanor). "Assessment" means the crime victims compensation assessment required under RCW 7.68.035. [1982 1st ex.s. c 8 § 6.]

Effective dates—Intent—Reports—1982 1st ex.s. c 8: See notes following RCW 7.68.035.

Title 3

JUSTICE COURTS—COURTS OF LIMITED JURISDICTION

(Formerly: Justices of the Peace and Constables)

Chapters

3.34 Justices of the peace.

3.58 Salaries and expenses.

3.66 Jurisdiction and venue.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 3.34

JUSTICES OF THE PEACE

Sections

3.34.020 Justices of the peace—Number of full time.

3.34.020 Justices of the peace—Number of full time. In each justice court district having a population of forty thousand or more but less than sixty thousand, there shall be elected one full time justice of the peace; in each justice court district having a population of sixty

thousand but less than one hundred twenty-five thousand, there shall be elected two full time justices; in each justice court district having a population of one hundred twenty-five thousand but less than two hundred thousand, there shall be elected three full time justices; and in each justice court district having a population of two hundred thousand or more there shall be elected one additional full time justice for each additional one hundred thousand persons or fraction thereof: *Provided*, That if a justice court district having one or more full time justices should change in population, for reasons other than change in district boundaries, sufficiently to require a change in the number of judges previously authorized to it, the change shall be made by the county commissioners without regard to RCW 3.34.010 as now or hereafter amended and shall become effective on the second Monday of January of the year following: *Provided further*, That upon any redistricting of the county thereafter RCW 3.34.010, as now or hereafter amended, shall again designate the number of justices in the county: *Provided*, That in a justice court district having a population of one hundred twenty thousand people or more adjoining a metropolitan county of another state which has a population in excess of five hundred thousand there shall be one full time justice in addition to the number otherwise allowed by this section and without regard to RCW 3.34.030 or resolution of the county commissioners: *Provided further*, That the county commissioners may by resolution make a part time position a full time office: *Provided further*, That the county commissioners may by resolution provide for the election of one full time justice in addition to the number of full time justices authorized hereinbefore. [1982 c 29 § 1; 1973 1st ex.s. c 14 § 2; 1970 ex.s. c 23 § 2; 1969 ex.s. c 66 § 7; 1961 c 299 § 11.]

Chapter 3.58

SALARIES AND EXPENSES

Sections

3.58.020 Salaries of part time justices of the peace.

3.58.020 Salaries of part time justices of the peace. (1) The annual salaries of part time justices of the peace shall be set by the county commissioners in each county in accordance with the minimum and maximum salaries provided in this subsection:

(a) In justice court districts having a population under two thousand five hundred persons, the salary shall be not less than one thousand five hundred dollars nor more than twelve thousand dollars;

(b) In justice court districts having a population of two thousand five hundred persons or more, but less than five thousand, the salary shall be set at not less than one thousand eight hundred dollars nor more than fifteen thousand five hundred dollars;

(c) In justice court districts having a population of five thousand persons or more, but less than seven thousand five hundred, the salary shall be set at no less than

one thousand eight hundred or more than twenty-five thousand dollars;

(d) In justice court districts having a population of seven thousand five hundred persons or more, but less than ten thousand, the salary shall be set at not less than two thousand two hundred fifty dollars or more than thirty thousand dollars;

(e) In justice court districts having a population of ten thousand persons or more, but less than twenty thousand, the salary shall be set at no less than three thousand dollars or more than thirty-two thousand dollars;

(f) In justice court districts having a population of twenty thousand persons or more, but less than thirty thousand, the salary shall be set at not less than five thousand two hundred fifty dollars or more than forty thousand dollars. [1982 c 29 § 2; 1979 ex.s. c 255 § 9; 1974 ex.s. c 95 § 1; 1969 ex.s. c 192 § 1; 1961 c 299 § 101.]

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

Chapter 3.66

JURISDICTION AND VENUE

Sections
3.66.060 Criminal jurisdiction.

3.66.060 Criminal jurisdiction. The justice court shall have jurisdiction: (1) Concurrent with the superior court of all misdemeanors and gross misdemeanors committed in their respective counties and of all violations of city ordinances: Provided, That it shall in no event impose a greater punishment than a fine of one thousand dollars, or imprisonment for one year in the county or city jail as the case may be, or both such fine and imprisonment, unless otherwise expressly provided by statute; and it may suspend and revoke vehicle operator's licenses in the cases provided by law; (2) to sit as committing magistrates and conduct preliminary hearings in cases provided by law; (3) concurrent with the superior court of a proceeding to keep the peace in their respective counties. [1982 c 150 § 1; 1961 c 299 § 117.]

Title 4

CIVIL PROCEDURE

Chapters

4.22 Contributory fault—Effect—Imputation—Contribution—Settlement agreements.
4.24 Special rights of action and special immunities.
4.56 Judgments—Generally.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 4.22

CONTRIBUTORY FAULT—EFFECT—IMPUTATION—CONTRIBUTION—SETTLEMENT AGREEMENTS

(Formerly: Comparative negligence—Imputed negligence)

Sections
4.22.040 Right of contribution—Indemnity.
4.22.920 Applicability—1981 c 27.
4.22.925 Applicability—1981 c 27 § 17.

4.22.040 Right of contribution—Indemnity. (1) A right of contribution exists between or among two or more persons who are jointly and severally liable upon the same indivisible claim for the same injury, death or harm, whether or not judgment has been recovered against all or any of them. It may be enforced either in the original action or by a separate action brought for that purpose. The basis for contribution among liable persons is the comparative fault of each such person. However, the court may determine that two or more persons are to be treated as a single person for purposes of contribution.

(2) Contribution is available to a person who enters into a settlement with a claimant only (a) if the liability of the person against whom contribution is sought has been extinguished by the settlement and (b) to the extent that the amount paid in settlement was reasonable at the time of the settlement.

(3) The common law right of indemnity between active and passive tortfeasors is abolished: Provided, That the common law right of indemnity between active and passive tortfeasors is not abolished in those cases to which a right of contribution by virtue of RCW 4.22.920(2) does not apply. [1982 c 100 § 1; 1981 c 27 § 12.]

Severability—1982 c 100: "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." [1982 c 100 § 4.]

4.22.920 Applicability—1981 c 27. (1) *This amendatory act shall apply to all claims arising on or after July 26, 1981.

(2) Notwithstanding subsection (1) of this section, RCW 4.22.040, 4.22.050, and 4.22.060 shall also apply to all actions in which trial on the underlying action has not taken place prior to July 26, 1981, except that there is no right of contribution in favor of or against any party who has, prior to July 26, 1981, entered into a release, covenant not to sue, covenant not to enforce judgment, or similar agreement with the claimant. [1982 c 100 § 2; 1981 c 27 § 15.]

*Reviser's note: "This amendatory act" [1981 c 27] consists of chapter 7.72 RCW, RCW 4.22.005, 4.22.015, 4.22.030-4.22.060, 4.22.911, 4.22.920, the amendment to RCW 4.22.020, and the repeal of RCW 4.22.010.

Severability—1982 c 100: See note following RCW 4.22.040.

4.22.925 Applicability—1981 c 27 § 17. In accordance with section 15(1), chapter 27, Laws of 1981, the repeal of RCW 4.22.010 by section 17, chapter 27, Laws of 1981 applies only to claims arising on or after

July 26, 1981. RCW 4.22.010 shall continue to apply to claims arising prior to July 26, 1981. [1982 c 100 § 3.]

Severability—1982 c 100: See note following RCW 4.22.040.

Chapter 4.24

SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

Sections

- 4.24.312 Person rendering emergency aid in hazardous materials incident—Immunity from liability—Limitations.
4.24.410 Dog handler using police dog in line of duty—Immunity.

4.24.312 Person rendering emergency aid in hazardous materials incident—Immunity from liability—Limitations. See RCW 70.136.050.

4.24.410 Dog handler using police dog in line of duty—Immunity. (1) As used in this section:

(a) "Police dog" means a dog used by a law enforcement agency specially trained for law enforcement work and under the control of a dog handler.

(b) "Dog handler" means a law enforcement officer who has successfully completed training as prescribed by the Washington state criminal justice training commission in police dog handling.

(2) Any dog handler who uses a police dog in the line of duty in accordance with standards established by the law enforcement agency for which he works is immune from civil action for damages arising out of such activities. [1982 c 22 § 1.]

Chapter 4.56

JUDGMENTS—GENERALLY

Sections

- 4.56.110 Interest on judgments.

4.56.110 Interest on judgments. Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in such contracts: *Provided*, That said interest rate is set forth in the judgment.

(2) Except as provided under subsection (1) of this section, judgments shall bear interest at the rate of twelve percent per annum from the date of entry thereof: *Provided*, That in any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. [1982 c 198 § 1; 1980 c 94 § 5; 1969 c 46 § 1; 1899 c 80 § 6; 1895 c 136 § 4; RRS § 457.]

Effective date—1980 c 94: See note following RCW 4.84.250.

Title 5 EVIDENCE

Chapters

- 5.60 Witnesses—Competency.

Chapter 5.60

WITNESSES—COMPETENCY

Sections

- 5.60.060 Who are disqualified—Privileged communications.

5.60.060 Who are disqualified—Privileged communications. (1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 71.05 RCW: *Provided*, That the spouse of a person sought to be detained under chapter 71.05 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2) An attorney or counselor shall not, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon in the course of professional employment.

(3) A clergyman or priest shall not, without the consent of a person making the confession, be examined as to any confession made to him in his professional character, in the course of discipline enjoined by the church to which he belongs.

(4) A regular physician or surgeon shall not, without the consent of his patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him to prescribe or act for the patient, but this exception shall not apply in any judicial proceeding regarding a child's injuries, neglect or sexual abuse, or the cause thereof.

(5) A public officer shall not be examined as a witness as to communications made to him in official confidence, when the public interest would suffer by the disclosure. [1982 c 56 § 1; 1979 ex.s. c 215 § 2; 1965 c 13 § 7; Code 1881 § 392; 1879 p 118 § 1; 1877 p 86 § 394; 1873 p 107 § 385; 1869 p 104 § 387; 1854 p 187 § 294; RRS § 1214. Cf. 1886 p 73 § 1.]

Rules of court: Cf. CR 43(g).

Severability—1982 c 56: "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." [1982 c 56 § 2.] This applies to RCW 5.60.060.

Nonsupport or family desertion, spouse as witness: RCW 26.20.071.

Optometrist—Client, privileged communications: RCW 18.53.200.

Psychologist—Client, privileged communications: RCW 18.83.110.

Report of child abuse: Chapter 26.44 RCW.

Uniform reciprocal enforcement of support act—Spouse as witness: RCW 26.21.170.

Title 6

ENFORCEMENT OF JUDGMENTS

Chapters

6.12 Homesteads.

Chapter 6.12 HOMESTEADS

Sections

6.12.100 Homestead subject to execution, when.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

6.12.100 Homestead subject to execution, when. The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises;

(2) On debts secured by purchase money security agreements describing as collateral a mobile home located on the premises or mortgages on the premises, executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, including as a joint case under 11 U.S.C. Sec. 302, and (b) the other spouse exempts property from property of the estate under the federal exemption provisions of 11 U.S.C. Sec. 522(b)(1). [1982 c 10 § 1. Prior: 1981 c 304 § 17; 1981 c 149 § 1; 1909 c 44 § 1; 1895 c 64 § 5; RRS § 533.]

Severability—1982 c 10: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 10 § 19.] This applies to RCW 6.12.100, 9A.32.040, 9A.44.040, 31.04.040, 34.04.010, 36.57.040, 36.93.090, 41.06.110, 42.17.240, 43.33A.160, 43.88.160, 46.63.020, 46.63.110, 70.37.100, 77.12.323, 82.04.260 and the repeal of RCW 9.41.025, 9A.32.047 and 77.20.015, section 55, chapter 136, Laws of 1981 and section 57, chapter 136, Laws of 1981.

Severability—1981 c 304: See note following RCW 26.16.030.

Title 7

SPECIAL PROCEEDINGS AND ACTIONS

Chapters

7.04 Arbitration.

7.06 Mandatory arbitration of civil actions.

7.48A Moral nuisances.

7.68 Victims of crimes—Compensation, assistance.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 7.04

ARBITRATION

Sections

7.04.020 Applications in writing—How heard—Jurisdiction.
7.04.150 Confirmation of award by court.

7.04.020 Applications in writing—How heard—Jurisdiction. Any application made under authority of this chapter shall be made in writing and heard in a summary way in the manner and upon the notice provided by law or rules of court for the making and hearing of motions or petitions, except as otherwise herein expressly provided.

Jurisdiction under this chapter is specifically conferred on the district and superior courts of the state, subject to jurisdictional limitations. [1982 c 122 § 1; 1943 c 138 § 2; Rem. Supp. 1943 § 430–2.]

7.04.150 Confirmation of award by court. At any time within one year after the award is made, unless the parties shall extend the time in writing, any party to the arbitration may apply to the court for an order confirming the award, and the court shall grant such an order unless the award is beyond the jurisdiction of the court, or is vacated, modified, or corrected, as provided in RCW 7.04.160 and 7.04.170. Notice in writing of the motion must be served upon the adverse party, or his attorney, five days before the hearing thereof. The validity of an award, otherwise valid, shall not be affected by the fact that no motion is made to confirm it. [1982 c 122 § 2; 1943 c 138 § 15; Rem. Supp. 1943 § 430–15.]

Chapter 7.06

MANDATORY ARBITRATION OF CIVIL ACTIONS

Sections

7.06.020 Actions subject to mandatory arbitration.
7.06.050 Decision and award—Appeals—Trial—Judgment.

7.06.020 Actions subject to mandatory arbitration. All civil actions, except for appeals from municipal or justice courts, which are at issue in the superior court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of ten thousand dollars, or if approved by the superior court of a county by majority vote of the judges thereof, fifteen thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration. [1982 c 188 § 1; 1979 c 103 § 2.]

Rules of court: MAR 1.2.

7.06.050 Decision and award—Appeals—Trial—Judgment. Following a hearing as prescribed by court rule, the arbitrator shall file his decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after such filing, any aggrieved party may file with the clerk a written notice of appeal and request for a trial de novo in the superior court on all issues of law and fact. Such trial de novo shall thereupon be held, including a right to jury, if demanded.

If no appeal has been filed at the expiration of twenty days following filing of the arbitrator's decision and award, a judgment shall be entered and may be presented to the court by any party, on notice, which judgment when entered shall have the same force and effect as judgments in civil actions. [1982 c 188 § 2; 1979 c 103 § 5.]

Chapter 7.48A MORAL NUISANCES

Sections

7.48A.010	Definitions.
7.48A.020	Moral nuisances—Declaration of.
7.48A.030	Civil actions—Who may bring.
7.48A.040	Maintenance of moral nuisance—Civil penalty.
7.48A.050	Civil penalties—Payment.
7.48A.060	Exceptions to application of chapter.
7.48A.900	Severability—1982 c 184.

7.48A.010 Definitions. The definitions set forth in this section shall apply throughout this chapter.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual or violent conduct which appears in the lewd matter, or knowledge of the acts of lewdness or prostitution which occur on the premises.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which explicitly depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or

(iii) Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

(c) Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Matter" shall mean a motion picture film or a publication or both.

(5) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Film, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(6) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(7) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(8) "Prurient" means that which incites lasciviousness or lust.

(9) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or coin-operated machine.

(10) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter. [1982 c 184 § 1.]

7.48A.020 Moral nuisances—Declaration of. The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition;

(2) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(3) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(4) Every place which, as a regular course of business, is used for the purpose of lewdness or prostitution, and every such place in or upon which acts of lewdness or prostitution are conducted, permitted, carried on, continued, or exist. [1982 c 184 § 2.]

7.48A.030 Civil actions—Who may bring. Any of the following parties may bring a civil action in the superior court of any county where a moral nuisance is alleged to have been maintained:

(1) The prosecuting attorney for the county where the alleged moral nuisance is located;

(2) The city attorney for the city where the alleged moral nuisance is located; or

(3) The attorney general.

The rules of evidence, burden of proof, and all other rules of court shall be the court rules generally applicable to civil cases in this state: *Provided*, That the standard of proof on the issue of obscenity shall be clear, cogent, and convincing evidence. [1982 c 184 § 3.]

7.48A.040 Maintenance of moral nuisance—Civil penalty. (1) No person shall with knowledge maintain a moral nuisance.

(2) Upon a determination that a defendant has with knowledge maintained a moral nuisance, the court shall impose a civil penalty and judgment of an amount as the court may determine to be appropriate. In imposing the civil penalty, the court shall consider the wilfulness of the defendant's conduct and the profits made by the defendant attributable to the moral nuisance. [1982 c 184 § 4.]

7.48A.050 Civil penalties—Payment. All civil penalties assessed under RCW 7.48A.040 shall be paid into the general treasury of the governmental unit commencing the civil action. [1982 c 184 § 5.]

7.48A.060 Exceptions to application of chapter. Nothing in this chapter applies to the circulation of any material by any recognized historical society or museum, any library of any college or university, or to any archive or library under the supervision and control of the state, county, municipality, or other political subdivision. [1982 c 184 § 6.]

7.48A.900 Severability—1982 c 184. 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. [1982 c 184 § 9.]

Chapter 7.68

VICTIMS OF CRIMES—COMPENSATION, ASSISTANCE

Sections

7.68.035	Penalty assessments in addition to fine or bail forfeiture—Crime victims compensation account created—Use.
7.68.070	Benefits—Right to and amount—Limitations.
7.68.915	Savings—Statute of limitations—1982 1st ex.s. c 8.

7.68.035 Penalty assessments in addition to fine or bail forfeiture—Crime victims compensation account created—Use. (1) Whenever any person is found guilty in any court of competent jurisdiction of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment of fifty dollars for a felony or gross misdemeanor and twenty-five dollars for a misdemeanor. The assessment shall be in addition to any other penalty or fine imposed by law.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.024, 46.52.090, 46.70.140, 46.65.090, 46.61.502, 46.61.504, 46.52.100, 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.090(2) and 46.09.120(2).

(3) Whenever any person accused of having committed a criminal act, posts bail pursuant to the provisions of chapter 10.19 RCW, and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the criminal act.

(4) Notwithstanding any other provision of law, such penalty assessments shall be paid by the clerk of the court to the city or county treasurer, as the case may be, who shall monthly transmit eighty percent of such penalty assessments to the state treasurer. The state treasurer shall deposit such assessments in an account within the state general fund to be known as the crime victims compensation account, hereby created, and all moneys placed in the account shall be used exclusively for the administration of this chapter, after appropriation by statute. Except as provided in subsection (5) of this section, the remaining twenty percent of such assessments shall be provided to the county prosecuting attorney to be used exclusively for comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

(5) If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section, the city or county treasurer, as the case may be, shall monthly transmit one hundred percent of such penalty assessments to the state treasurer for deposit in the crime victims compensation account within the state general fund.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Penalty assessments under this section shall also be imposed in juvenile offense dispositions under Title 13 RCW. [1982 1st ex.s. c 8 § 1; 1977 ex.s. c 302 § 10.]

Effective dates—1982 1st ex.s. c 8: "Chapter 8, Laws of 1982 1st ex. sess. is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except sections 2, 3, and 6 of chapter 8, Laws of 1982 1st ex. sess. shall take effect on January 1, 1983." [1982 1st ex.s. c 47 § 29; 1982 1st ex.s. c 8 § 9.] Section 2 of chapter 8, Laws of 1982 1st ex. sess. is an amendment to RCW 7.68.070. Sections 3 and 6 of that chapter are codified as RCW 7.68.915 and 2.56.035, respectively. The remainder of the act took effect March 27, 1982.

Intent—Reports—1982 1st ex.s. c 8: "The intent of the legislature is that the victim of crime program will be self-funded. Toward that end, the department of labor and industries shall not pay benefits beyond the resources of the account. The department of labor and industries and the administrator for the courts shall cooperatively prepare a report on the collection of penalty assessments and the level of expenditures, and recommend adjustments to the revenue collection mechanism to the legislature before January 1, 1983. It is further the intent of the legislature that the percentage of funds devoted to comprehensive programs for victim assistance, as provided in RCW 7.68-.035, be re-examined to ensure that it does not unreasonably conflict with the higher priority of compensating victims. To that end, the county prosecuting attorneys shall report to the legislature no later than January 1, 1984, either individually or as a group, on their experience and costs associated with such programs, describing the nature and extent of the victim assistance provided." [1982 1st ex.s. c 8 § 10.]

7.68.070 Benefits—Right to and amount—Limitations. The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190 and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act including criminal acts committed between July 1, 1981, and *the effective date of this 1982 act, or his family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, and the rights, duties, responsibilities, limitations and procedures applicable to a workman as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person shall be entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation or incitement by the victim;

(b) The result of an act or acts committed by a person living in the same household with the victim;

(c) The result of an act or acts committed by a person who is at the time of the criminal act the spouse, child, parent, or sibling of the victim by the half or whole blood, adoption or marriage, or the parent of the spouse of or sibling of the spouse of the victim by the half or whole blood, adoption, or marriage, or the son-in-law or daughter-in-law of the victim, unless in the director's sole discretion it is determined that:

(i) The parties to the marriage which establishes the relationship between the person committing the criminal act and the victim described above are estranged and living apart, and

(ii) The interests of justice require otherwise in the particular case;

(d) The result of the victim assisting, attempting, or committing a criminal act; or

(e) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a workman and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: *Provided*, That in the event the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived him or where such spouse has legal custody of all of his children, shall be limited to burial expenses not to exceed five hundred dollars and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits shall be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: *Provided*, That in the event a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, such victim shall receive monthly during the period of such disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of such average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of such average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of such average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of such average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of such average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of such average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of such average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of such average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of such average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of such average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of such average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of such average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: *Provided*, That no person shall be eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so

employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: *Provided*, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended shall apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workmen contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160 and 51.32.210 as now or hereafter amended shall be applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person shall be entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) Except for benefits authorized under RCW 7.68.080, no more than fifteen thousand dollars may be granted as a result of any single injury or death.

(13) Notwithstanding the provisions of Title 51 RCW, no victim shall be eligible for benefits for the first two hundred dollars worth of loss suffered: *Provided*, That this subsection shall not apply to costs covered by RCW 7.68.170 or to other medical costs incurred by the victim of a sexual assault.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for any one injury or death for loss of earnings or future earnings or for loss of support shall be limited to ten thousand dollars. [1982 1st ex.s. c 8 § 2; 1981 1st ex.s. c 6 § 26; 1977 ex.s. c 302 § 5; 1975 1st ex.s. c 176 § 3; 1973 1st ex.s. c 122 § 7.]

***Reviser's note:** For "the effective date of this 1982 act" [1982 1st ex.s. c 8], see note following RCW 7.68.035.

Effective dates—Intent—Reports—1982 1st ex.s. c 8: See notes following RCW 7.68.035.

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

7.68.915 Savings—Statute of limitations—1982 1st ex.s. c 8. Nothing in *this act affects or impairs any right to benefits existing prior to **the effective date of this act. For injuries occurring on and after July 1, 1981, and before **the effective date of this act, the statute of limitations for filing claims under this chapter shall begin to run on **the effective date of this act. [1982 1st ex.s. c 8 § 3.]

Reviser's note: *(1) "This act" [1982 1st ex.s. c 8] consists of RCW 2.56.035 and 7.68.915, amendments to RCW 7.68.035, 7.68.070, 9.92.060, 9.95.210, and several uncodified sections.

** (2) For "the effective date of this act," see note following RCW 7.68.035.

Effective dates—Intent—Reports—1982 1st ex.s. c 8: See notes following RCW 7.68.035.

Title 9

CRIMES AND PUNISHMENTS

[See also Washington Criminal Code, Title 9A RCW]

Chapters

- 9.08 Animals, crimes relating to.
- 9.41 Firearms and dangerous weapons.
- 9.46 Gambling—1973 act.
- 9.68 Obscenity and pornography.
- 9.92 Punishment.
- 9.94A Sentencing reform act of 1981.
- 9.95 Prison terms, paroles and probation.

Threats against governor or family: RCW 9A.36.090.

Chapter 9.08

ANIMALS, CRIMES RELATING TO

Sections

- 9.08.060 Repealed.
- 9.08.070 Dogs—Taking, concealing, injuring, killing, etc.—Penalty.

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

9.08.070 Dogs—Taking, concealing, injuring, killing, etc.—Penalty. Any person who, with intent to deprive or defraud the owner thereof, does any of the following shall be guilty of a gross misdemeanor:

(1) Takes, leads away, confines, secretes or converts any dog, except in cases in which the value of the dog exceeds two hundred fifty dollars;

(2) Conceals the identity of any dog or its owner by obscuring or removing from the dog any collar, tag, license, tattoo, or other identifying device or mark; or

(3) Wilfully kills or injures any dog, unless excused by law.

Such violations shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. [1982 c 114 § 1.]

Chapter 9.41

FIREARMS AND DANGEROUS WEAPONS

Sections

- 9.41.025 Committing crime when armed—Penalties—"Inherently dangerous" defined—Resisting arrest.
- 9.41.025 Repealed. (Effective July 1, 1984.)
- 9.41.050 Carrying pistol.
- 9.41.190 Machine guns prohibited—Exception.
- 9.41.280 Students carrying dangerous weapons on school premises—Penalty—Exceptions.

9.41.025 Committing crime when armed—Penalties—"Inherently dangerous" defined—Resisting arrest. Any person who shall commit or attempt to commit any felony, including but not limited to assault in the first degree, rape in the first degree, burglary in the first degree, robbery in the first degree, riot, or any other felony which includes as an element of the crime the fact that the accused was armed with a firearm, or any misdemeanor or gross misdemeanor categorized herein as inherently dangerous, while armed with, or in the possession of any firearm, shall upon conviction, in addition to the penalty provided by statute for the crime committed without use or possession of a firearm, be imprisoned as herein provided:

(1) For the first offense the court shall impose a sentence of not less than five years, which sentence shall not be suspended or deferred;

(2) For a second offense, or if, in the case of a first conviction of violation of any provision of this section, the offender shall previously have been convicted of violation of the laws of the United States or of any other state, territory, or district relating to the use or possession of a firearm while committing or attempting to commit a crime, the offender shall be imprisoned for not less than seven and one-half years, which sentence shall not be suspended or deferred;

(3) For a third or subsequent offense, or if the offender shall previously have been convicted two or more times in the aggregate of any violation of the law of the United States or of any other state, territory, or district relating to the use or possession of a firearm while committing or attempting to commit a crime, the offender shall be imprisoned for not less than fifteen years, which sentence shall not be suspended or deferred;

(4) Misdemeanors or gross misdemeanors categorized as "inherently dangerous" as the term is used in this statute means any of the following crimes or an attempt to commit any of the same: Simple assault, coercion, vehicle prowling, escape in the third degree, obstructing a public servant, theft in the third degree, resisting arrest, and communication with a minor for immoral purposes.

(5) If any person shall resist apprehension or arrest by firing upon a law enforcement officer, such person shall in addition to the penalty provided by statute for resisting arrest, be guilty of a felony and punished by imprisonment for not less than ten years, which sentence shall not be suspended or deferred. [1982 1st ex.s. c 47 § 1; 1981 c 258 § 1; 1969 ex.s. c 175 § 1.]

Reviser's note: RCW 9.41.025 was also repealed by 1982 c 10 § 17, effective July 1, 1984, without cognizance of its amendment by 1982 1st ex.s. c 47 § 1.

Severability—1982 1st ex.s. c 47: "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." [1982 1st ex.s. c 47 § 31.]

9.41.025 Repealed. (Effective July 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Reviser's note: This section was also amended by 1982 1st ex.s. c 47 § 1 without cognizance of the repeal thereof.

9.41.050 Carrying pistol. (1) Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed weapon.

(2) A person who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.

(3) A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed weapon and: (a) The pistol is on the licensee's person, (b) the licensee is within the vehicle at all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle. [1982 1st ex.s. c 47 § 3; 1961 c 124 § 4; 1935 c 172 § 5; RRS § 2516-5.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9.41.190 Machine guns prohibited—Exception. It is unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machine gun, or any part thereof capable of use or assembling or repairing any machine gun: *Provided, however,* That such limitation shall not apply to any peace officer in the discharge of official duty, or to any officer or member of the armed forces of the United States or the state of Washington: *Provided further,* That this section does not apply to a person, including an employee of such person, who or which is exempt from or licensed under the National Firearms Act (26 U.S.C. section 5801 et seq.), and engaged in the production, manufacture, or testing of weapons or equipment to be used or purchased by the armed forces of the United States, and having a United States government industrial security clearance. [1982 1st ex.s. c 47 § 2; 1933 c 64 § 1; RRS § 2518-1.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9.41.280 Students carrying dangerous weapons on school premises—Penalty—Exceptions. (1) It is unlawful for an elementary or secondary school student under the age of twenty-one knowingly to carry onto public or private elementary or secondary school premises:

(a) Any firearm; or

(b) Any dangerous weapon as defined in RCW 9.41-250; or

(c) Any device commonly known as "nun-chu-ka sticks", consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means; or

(d) Any device, commonly known as "throwing stars", which are multi-pointed, metal objects designed to embed upon impact from any aspect.

(2) Any such student violating subsection (1) of this section is guilty of a gross misdemeanor.

(3) Subsection (1) of this section does not apply to:

(a) Any student of a private military academy; or

(b) Any student engaged in military activities, sponsored by the federal or state governments while engaged in official duties; or

(c) Any student who is attending a convention or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed; or

(d) Any student who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes conducted on the school premises. [1982 1st ex.s. c 47 § 4.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Chapter 9.46

GAMBLING—1973 ACT

Sections

9.46.291 Chapter not applicable to state lottery.

Services to be provided to state lottery commission: RCW 67.70.020.

State lottery commission—Sale of tickets or shares—Other law inapplicable: RCW 67.70.210.

9.46.291 Chapter not applicable to state lottery. The provisions of this chapter shall not apply to the conducting, operating, participating, or selling or purchasing of tickets or shares in the "lottery" or "state lottery" as defined in RCW 67.70.010 when such conducting, operating, participating, or selling or purchasing is in conformity to the provisions of chapter 67.70 RCW and to the rules adopted thereunder. [1982 2nd ex.s. c 7 § 39.]

Construction—Severability—1982 2nd ex.s. c 7: See RCW 67.70.902 and 67.70.903.

Chapter 9.68

OBSCENITY AND PORNOGRAPHY

Sections

9.68.010

Repealed.

9.68.020

Repealed.

9.68.140

Promoting pornography—Class C felony—Penalties.

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

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

9.68.140 Promoting pornography—Class C felony—Penalties. A person who, for profit-making purposes and with knowledge, sells, exhibits, displays, or produces any lewd matter as defined in RCW 7.48A.010 is guilty of promoting pornography. Promoting pornography is a class C felony and shall bear the punishment prescribed for that class of felony, except that upon conviction of promoting pornography the court shall impose a fine of not less than five thousand dollars per count nor more than fifty thousand dollars per count. In imposing the criminal penalty, the court shall consider the

wilfulness of the defendant's conduct and the profits made by the defendant attributable to the felony. All fines assessed under this chapter shall be paid into the general treasury of the state. [1982 c 184 § 8.]

Severability—1982 c 184: See RCW 7.48A.900.

Class C felony—*Authorized sentence: RCW 9A.20.020.*

Chapter 9.92 PUNISHMENT

Sections

9.92.010	Punishment of felony when not fixed by statute.
9.92.020	Punishment of gross misdemeanor when not fixed by statute.
9.92.030	Punishment of misdemeanor when not fixed by statute.
9.92.060	Suspending sentences.
9.92.064	Suspended sentence—Termination date, establishment—Modification of terms.

9.92.010 Punishment of felony when not fixed by statute. Every person convicted of a felony for which no punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence, shall be punished by confinement or fine which shall not exceed confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such confinement and fine. [1982 1st ex.s. c 47 § 5; 1909 c 249 § 13; RRS § 2265.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Classification of crimes: Chapter 9A.20 RCW.

9.92.020 Punishment of gross misdemeanor when not fixed by statute. Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine. [1982 1st ex.s. c 47 § 6; 1909 c 249 § 15; RRS § 2267.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9.92.030 Punishment of misdemeanor when not fixed by statute. Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars or both such imprisonment and fine. [1982 1st ex.s. c 47 § 7; 1909 c 249 § 14; Code 1881 § 785; RRS § 2266.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9.92.060 Suspending sentences. Whenever any person shall be convicted of any crime except murder, burglary

in the first degree, arson in the first degree, robbery, carnal knowledge of a female child under the age of ten years, or rape, the court may in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by such court, and that the sentenced person be placed under the charge of a parole or peace officer during the term of such suspension, upon such terms as the court may determine: *Provided*, That as a condition to suspension of sentence, the court shall require the payment of the penalty assessment required by RCW 7.68.035: *Provided further*, That as a condition to suspension of sentence, the court may require the convicted person to make such monetary payments, on such terms as the court deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, (3) to pay any fine imposed and not suspended and the court or other costs incurred in the prosecution of the case, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and (4) to contribute to a county or interlocal drug fund. In no case shall a sentence be suspended under the provisions of this section unless the person if sentenced to confinement in a penal institution be placed under the charge of a parole officer, who is a duly appointed and acting officer of the institution to which the person is sentenced: *Provided*, That persons convicted in justice court may be placed under supervision of a probation officer employed for that purpose by the board of county commissioners of the county wherein the court is located. If restitution to the victim has been ordered under subsection (2) of this section, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If restitution has not been made, the officer shall inform the prosecutor of that violation of the terms of the suspended sentence not less than three months prior to the termination of the suspended sentence. [1982 1st ex.s. c 47 § 8; 1982 1st ex.s. c 8 § 4; 1979 c 29 § 1; 1967 c 200 § 7; 1957 c 227 § 1; 1949 c 76 § 1; 1921 c 69 § 1; 1909 c 249 § 28; 1905 c 24 § 1; Rem. Supp. 1949 § 2280.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Intent—Reports—1982 1st ex.s. c 8: See note following RCW 7.68.035.

Severability—1967 c 200: See note following RCW 9.45.122.

Counties may provide probation and parole services: RCW 36.01.070. Probation: RCW 9.95.200 through 9.95.250.

Restitution as alternative to fine: RCW 9A.20.030.

Restitution as condition of probation: RCW 9.95.210.

9.92.064 Suspended sentence—Termination date, establishment—Modification of terms. In the case of a

person granted a suspended sentence under the provisions of RCW 9.92.060, the court shall establish a definite termination date for the suspended sentence. The court shall set a date no later than the time the original sentence would have elapsed and may provide for an earlier termination of the suspended sentence. Prior to the entry of an order formally terminating a suspended sentence the court may modify the terms and conditions of the suspension or extend the period of the suspended sentence. [1982 1st ex.s. c 47 § 9; 1971 ex.s. c 188 § 2.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Chapter 9.94A

SENTENCING REFORM ACT OF 1981

Sections

9.94A.030	Definitions.
9.94A.040	Sentencing guidelines commission—Established—Powers and duties.
9.94A.050	Sentencing guidelines commission—Research staff—Data, information, assistance—By-laws—Salary of executive officer.
9.94A.120	Sentences.
9.94A.140	Restitution.
9.94A.150	Leaving correctional facility or release prior to expiration of sentence prohibited—Exceptions.
9.94A.210	Sentence within standard range for offense not appealable—Sentence outside sentence range subject to review—Procedure—Grounds for reversal—Written opinions.
9.94A.270	Probationer assessments.

9.94A.030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commission" means the sentencing guidelines commission.

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(3) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5).

(4) "Confinement" means total or partial confinement as defined in this section.

(5) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW.

(6) "Crime-related prohibition" means an order of a court prohibiting conduct which directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(7)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant

has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" includes a defendant's convictions or pleas of guilty in juvenile court if: (i) The guilty plea or conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); and (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) the defendant was twenty-three years of age or less at the time the offense for which he or she is being sentenced was committed.

(8) "Department" means the department of corrections.

(9) "Determinate sentence" means a sentence which states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a fine or restitution. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(10) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(11) "First-time offender" means any person convicted of a felony not classified as a violent offense under this chapter, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(12) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(13) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, for a substantial portion of each day with the balance of the day spent in the community.

(14) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(15) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(16) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(17) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as

a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, which is comparable to a felony classified as a violent offense in subsection (17)(a) of this section; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a violent offense under subsection (17)(a) or (b) of this section. [1982 c 192 § 1; 1981 c 137 § 3.]

9.94A.040 Sentencing guidelines commission—Established—Powers and duties. (1) A sentencing guidelines commission is established as an agency of state government.

(2) The commission shall, following a public hearing or hearings:

(a) Devise a series of recommended standard sentence ranges for all felony offenses and a system for determining which range of punishment applies to each offender based on the extent and nature of the offender's criminal history, if any;

(b) Devise recommended prosecuting standards in respect to charging of offenses and plea agreements; and

(c) Devise recommended standards to govern whether sentences are to be served consecutively or concurrently.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) In devising the standard sentence ranges of total and partial confinement under this section, the commission is subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.020.

(5) In carrying out its duties under subsection (2) of this section, the commission shall give consideration to the existing guidelines adopted by the association of superior court judges and the Washington association of prosecuting attorneys and the experience gained through use of those guidelines. The commission shall emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender.

(6) This commission shall conduct a study to determine the capacity of correctional facilities and programs which are or will be available. While the commission need not consider such capacity in arriving at its recommendations, the commission shall project whether the implementation of its recommendations would result in exceeding such capacity. If the commission finds that this result would probably occur, then the commission shall prepare an additional list of standard sentences which shall be consistent with such capacity.

(7) By January 10, 1983, the commission shall recommend its standard sentence ranges and standards to the legislature by providing the recommendations to the chief clerk of the house of representatives and secretary of the senate. If the commission has prepared an additional list of standard sentence ranges, as provided under subsection (6) of this section, then the commission shall include such list along with its recommendations.

(8) Every two years, the commission may recommend to the legislature revisions or modifications to the standard sentence ranges and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity.

(9) The commission shall study the existing criminal code and from time to time make recommendations to the legislature for modification.

(10) The commission shall exercise its duties under this section in conformity with chapter 34.04 RCW, as now existing or hereafter amended. [1982 c 192 § 2; 1981 c 137 § 4.]

9.94A.050 Sentencing guidelines commission—Research staff—Data, information, assistance—Bylaws—Salary of executive officer. The commission shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties. The commission may request from the office of financial management, the board of prison terms and paroles, administrator for the courts, the department of corrections, and the department of social and health services such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without cost to the commission. The commission shall adopt its own bylaws.

The salary for a full-time executive officer, if any, shall be fixed by the governor pursuant to RCW 43.03-.040. [1982 c 192 § 3; 1981 c 137 § 5.]

9.94A.120 Sentences. When a person is convicted of a felony, the court shall impose punishment as provided in this section.

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

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds that imposition of a sentence within the standard range would impose an excessive punishment on the defendant

or would pose an unacceptable threat to community safety.

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

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

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

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the probation officer of any change in the offender's address or employment;
- (e) Report as directed to the court and a probation officer; or
- (f) Pay a fine, make restitution, and/or accomplish some community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, restitution, a term of community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds that the sentence otherwise authorized by this subsection would pose an unacceptable threat to community safety.

(7) If the court imposes a sentence requiring confinement of sixty days or less, the court may, in its discretion, specify that the sentence be served on consecutive

or intermittent days. A sentence requiring more than sixty days of confinement shall be served on consecutive days.

(8) If a sentence imposed includes a fine or restitution, the sentence shall specify a reasonable manner and time in which the fine or restitution shall be paid. No such period of time may exceed ten years subsequent to the entering of the judgment of conviction.

(9) Except as provided under RCW 9.94A.140(1), a court may not impose a sentence providing for a term of confinement or community supervision which exceeds the statutory maximum for the crime as provided in RCW 9A.20.020. [1982 c 192 § 4; 1981 c 137 § 12.]

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.140 Restitution. (1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within sixty days and may set the terms and conditions under which the defendant shall make restitution. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years subsequent to the imposition of sentence. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim or defendant. [1982 c 192 § 5; 1981 c 137 § 14.]

9.94A.150 Leaving correctional facility or release prior to expiration of sentence prohibited—Exceptions. No person serving a sentence imposed pursuant to this chapter shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) The terms of the sentence may be reduced by earned early release time in accordance with procedures developed and promulgated by the department. The earned early release time shall be for good behavior and good performance, as determined by the department. In no case shall the aggregate earned early release time exceed one-third of the sentence;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(4) If the sentence of confinement is in excess of eighteen months but not in excess of three years, no more than the final three months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community. If the sentence of confinement is in excess of three years, no more than the final six months of the sentence may be served in such partial confinement;

(5) The governor may pardon any offender; and

(6) The department of corrections may release an offender from total confinement any time within ten days before a release date calculated under this section.

(7) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160. [1982 c 192 § 6; 1981 c 137 § 15.]

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.210 Sentence within standard range for offense not appealable—Sentence outside sentence range subject to review—Procedure—Grounds for reversal—Written opinions. (1) A sentence within the standard range for the offense shall not be appealed. For purposes of this section, a sentence imposed on a first offender under RCW 9.94A.120(5) shall also be deemed to be within the standard range for the offense and shall not be appealed.

(2) If a sentence is outside of the sentence range for the offense, the defendant or prosecutor may seek review of the sentence before the court of appeals in accordance with rules adopted by the supreme court.

(3) Pending review of the sentence, the sentencing court or the court of appeals may order the defendant confined or placed on conditional release, including bond.

(4) To reverse a sentence which is outside the sentence range, the reviewing court must find: (a) Either

that the reasons supplied by the sentencing judge are not supported by the record which was before the judge or that those reasons do not justify a sentence outside the standard range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient.

(5) A review under this section shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required and the review shall be heard within thirty days following the date of sentencing and a decision shall be rendered within fifteen days following the oral argument.

(6) The court of appeals shall issue a written opinion in support of its decision whenever the judgment of the sentencing court is reversed and may issue written opinions in any other case where the court believes that a written opinion would provide guidance to sentencing judges and others in implementing this chapter and in developing a common law of sentencing within the state. [1982 c 192 § 7; 1981 c 137 § 21.]

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.270 Probationer assessments. (1) Whenever a punishment imposed under this chapter requires probation services to be provided, the sentencing court shall require, as a condition of probation, that the offender pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the probation and which shall be considered as payment or part payment of the cost of providing probation supervision to the probationer. The court may exempt a person from the payment of all of [or] any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment which provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the court.

(d) The offender's age prevents him from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the court.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments which shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment which is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the state general fund.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982. [1982 c 207 § 2.]

Chapter 9.95

PRISON TERMS, PAROLES AND PROBATION

Sections

9.95.009	Board of prison terms and paroles—Existence ceases July 1, 1988—Reductions in membership—Continuation of functions—Transfer of records, property, etc.
9.95.210	Conditions may be imposed on probation.
9.95.230	Court revocation or termination of probation.
9.95.380	Prison overcrowding Reform Act of 1982—Legislative finding. (Expires July 1, 1984.)
9.95.390	Reduction of inmate population—Restrictions—Guidelines—Review by legislature. (Expires July 1, 1984.)
9.95.400	Cooperation and services by other agencies. (Expires July 1, 1984.)
9.95.410	Report on program. (Expires July 1, 1984.)

9.95.009 Board of prison terms and paroles—Existence ceases July 1, 1988—Reductions in membership—Continuation of functions—Transfer of records, property, etc. (1) On July 1, 1988, the board of prison terms and paroles shall cease to exist. Prior to that time, the board's membership shall be reduced as follows: (a) On July 1, 1985, the board shall be reduced to five members. This reduction shall take place by the expiration, on that date, of the two terms having the least time left to serve. (b) On July 1, 1986, the board shall be reduced to three members. This reduction shall take place by the expiration, on that date, of the two terms having the least time left to serve.

(2) Prior to its expiration and after July 1, 1984, the board shall continue its functions with respect to persons incarcerated for crimes committed prior to July 1, 1984. The board shall consider the standard ranges and standards adopted pursuant to RCW 9.94A.040, and shall attempt to make decisions reasonably consistent with those ranges and standards.

(3) On July 1, 1988, all documents, records, files, equipment, and other tangible property of the board of prison terms and paroles shall be delivered to the custody of the department of corrections. [1982 c 192 § 8; 1981 c 137 § 24.]

Severability—1981 c 137: See RCW 9.94A.910.

9.95.210 Conditions may be imposed on probation. The court in granting probation, may suspend the imposing or the execution of the sentence and may direct that such suspension may continue for such period of time, not exceeding the maximum term of sentence, except as hereinafter set forth and upon such terms and conditions as it shall determine.

The court in the order granting probation and as a condition thereof, may in its discretion imprison the defendant in the county jail for a period not exceeding one

year or may fine the defendant any sum not exceeding one thousand dollars plus the costs of the action, and may in connection with such probation impose both imprisonment in the county jail and fine and court costs. As a condition of probation, the court shall require the payment of the penalty assessment required by RCW 7.68.035. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, (3) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and (4) to contribute to a county or interlocal drug fund, and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of said probation to follow implicitly the instructions of the secretary. If the probationer has been ordered to make restitution, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of such person during the term of his probation: *Provided*, That for defendants found guilty in justice court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located. [1982 1st ex.s. c 47 § 10; 1982 1st ex.s. c 8 § 5; 1981 c 136 § 42; 1980 c 19 § 1. Prior: 1979 c 141 § 7; 1979 c 29 § 2; 1969 c 29 § 1; 1967 c 200 § 8; 1967 c 134 § 16; 1957 c 227 § 4; prior: 1949 c 77 § 1; 1939 c 125 § 1, part; Rem. Supp. 1949 § 10249-5b.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Intent—Reports—1982 1st ex.s. c 8: See note following RCW 7.68.035.

Effective date—1981 c 136: See RCW 72.09.900.

Restitution as alternative to fine: RCW 9A.20.030.

Restitution as condition to suspending sentence: RCW 9.92.060.

Termination of suspended sentence, restoration of civil rights: RCW 9.92.066.

Violations of probation conditions, rearrest, detention: RCW 72.04A.090.

9.95.230 Court revocation or termination of probation. The court shall have authority at any time prior to

the entry of an order terminating probation to (1) revoke, modify, or change its order of suspension of imposition or execution of sentence; (2) it may at any time, when the ends of justice will be subserved thereby, and when the reformation of the probationer shall warrant it, terminate the period of probation, and discharge the person so held. [1982 1st ex.s. c 47 § 11; 1957 c 227 § 6. Prior: 1939 c 125 § 1, part; RRS § 10249-5d.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9.95.380 Prison overcrowding Reform Act of 1982—Legislative finding. (Expires July 1, 1984.)

The legislature recognizes the serious nature of the problems caused by overcrowding at the state's correctional institutions and realizes that while a long-term solution is constructing increased correctional facility capacity, the emergent nature of the current situation necessitates an immediate, short-range response in order to avoid more serious consequences. [1982 c 228 § 1.]

Short title—1982 c 228: "RCW 9.95.380 through 9.95.410 may be known and cited as the Prison Overcrowding Reform Act of 1982." [1982 c 228 § 5.]

Expiration—1982 c 228: "RCW 9.95.380 through 9.95.410 shall expire on July 1, 1984." [1982 c 228 § 6.]

Severability—1982 c 228: "If any provision of this 1982 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." [1982 c 228 § 7.]

9.95.390 Reduction of inmate population—Restrictions—Guidelines—Review by legislature. (Expires July 1, 1984.)

(1) To assist in reducing the overcrowding conditions in this state's maximum and medium security prisons, the board of prison terms and paroles, in performance of its duties under chapter 9.95 RCW shall reduce the inmate population by implementation of the program adopted under subsection (2) of this section: *Provided*, That certification, in writing, by the governor and concurrence of the secretary of the department of corrections that reductions to reduce prison overcrowding are necessary, shall precede any action by the board. The reductions shall not apply to inmates serving mandatory minimum prison terms under RCW 9.95.040, and may not be made for an inmate confined for treason, any class A felony, or an inmate who has been found to be a sexual psychopath under chapter 71-.06 RCW.

(2) The board of prison terms and paroles shall adopt, within ninety days of April 3, 1982, guidelines for the reductions of the inmate population. These guidelines shall be applied to all inmates except those with mandatory minimums under RCW 9.95.040 or those confined for a class A felony.

(3) In establishing these guidelines, the board shall give priority to sentence reductions for inmates incarcerated for nonviolent offenses, inmates who are within six months of a scheduled parole, and inmates with the best records of conduct during confinement.

(4) In adopting this program, the board shall consider the public safety, the detrimental effect of overcrowding

upon inmate rehabilitation, and the best allocation of limited correctional facility resources.

(5) The rules adopted according to the provisions of RCW 9.95.390 shall not be implemented until the rules are submitted to the senate social and health services and the house institutions committee[s] for their consideration and review.

(6) This section does not require the board to reduce the inmate population to or below any certain number. [1982 c 228 § 2.]

Short title—**Expiration**—**Severability**—1982 c 228: See notes following RCW 9.95.380.

9.95.400 Cooperation and services by other agencies. (Expires July 1, 1984.)

The board of prison terms and paroles may request from the office of financial management, the department of corrections, the department of social and health services, and the administrator for the courts such cooperation, data, information, and data processing assistance as it may need to accomplish its duties, and such cooperation and services shall be provided without cost to the board. [1982 c 228 § 3.]

Short title—**Expiration**—**Severability**—1982 c 228: See notes following RCW 9.95.380.

9.95.410 Report on program. (Expires July 1, 1984.)

(1) The chairman of the board of prison terms and paroles shall submit a report to the governor, the legislative budget committee, and any standing committee which may be designated by the speaker of the house or the president of the senate as to:

(a) The changes in board policy and procedures mandated by RCW 9.95.390;

(b) The conduct on parole of inmates released pursuant to RCW 9.95.390;

(c) Additional data deemed appropriate.

(2) The first report shall be made on or before June 30, 1982, and periodically thereafter as requested by the governor, the chairman of the legislative budget committee, the speaker of the house of representatives, or the president of the senate. [1982 c 228 § 4.]

Short title—**Expiration**—**Severability**—1982 c 228: See notes following RCW 9.95.380.

Title 9A

WASHINGTON CRIMINAL CODE

[See also Crimes and Punishments, Title 9 RCW]

Chapters

9A.04 Preliminary article.

9A.20 Classification of crimes.

9A.32 Homicide.

9A.36 Assault and other crimes involving physical harm.

9A.44 Sexual offenses.

9A.52 Burglary and trespass.

9A.56 Theft and robbery.

9A.64 Family offenses.

- 9A.72 Perjury and interference with official proceedings.
 9A.76 Obstructing governmental operation.

Chapter 9A.04
PRELIMINARY ARTICLE

Sections

- 9A.04.080 Limitation of actions.

9A.04.080 Limitation of actions. Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, and arson where death does not ensue, within ten years after their commission; for violations of RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b), within five years after their commission; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: *Provided*, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, five, and ten years respectively: *And further provided*, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint or information be set aside, the time of limitation shall be extended by the length of time from the time of filing of such indictment, complaint, or information, to the time such indictment, complaint, or information was set aside. [1982 c 129 § 1; 1981 c 203 § 1; 1975 1st ex.s. c 260 § 9A.04.080.]

Severability—1982 c 129: "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." [1982 c 129 § 11.]

Chapter 9A.20
CLASSIFICATION OF CRIMES

Sections

- 9A.20.020 Authorized sentences for crimes committed before July 1, 1984.
 9A.20.021 Maximum sentences for crimes committed July 1, 1984, and after.
 9A.20.030 Alternative to a fine—Restitution.

Assessments required of convicted persons
misdemeanants: RCW 10.64.120.
parolees: RCW 72.04A.120.
probationers: RCW 9.94A.270.

9A.20.020 Authorized sentences for crimes committed before July 1, 1984. (1) Felony. Every person convicted of a classified felony shall be punished as follows:

(a) For a class A felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not less than twenty years, or by a fine in an amount fixed by the court of not more than fifty thousand dollars, or by both such imprisonment and fine;

(b) For a class B felony, by imprisonment in a state correctional institution for a maximum term of not more than ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such imprisonment and fine;

(c) For a class C felony, by imprisonment in a state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than ten thousand dollars, or by both such imprisonment and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed prior to July 1, 1984. [1982 c 192 § 9; 1981 c 137 § 37; 1975-'76 2nd ex.s. c 38 § 2; 1975 1st ex.s. c 260 § 9A.20.020.]

Severability—1981 c 137: See RCW 9.94A.910.

Effective date—Severability—1975-'76 2nd ex.s. c 38: See notes following RCW 9A.08.020.

Penalty assessments in addition to fine or bail forfeiture—Crime victims compensation account: RCW 7.68.035.

9A.20.021 Maximum sentences for crimes committed July 1, 1984, and after. (1) Felony. No person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more

than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984. [1982 c 192 § 10.]

Penalty assessments in addition to fine or bail forfeiture—Crime victims compensation account: RCW 7.68.035.

9A.20.030 Alternative to a fine—Restitution. (1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. It shall be the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime. [1982 1st ex.s. c 47 § 12; 1979 c 29 § 3; 1975 1st ex.s. c 260 § 9A.20.030.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Restitution as condition of probation: RCW 9.95.210.

Restitution as condition to suspending sentence: RCW 9.92.060.

Chapter 9A.32 HOMICIDE

Sections

9A.32.040 Murder in the first degree—Sentence.
9A.32.047 Repealed.

9A.32.040 Murder in the first degree—Sentence. Notwithstanding RCW 9A.32.030(2), any person convicted of the crime of murder in the first degree shall be sentenced to life imprisonment. [1982 c 10 § 2. Prior:

(1) 1981 c 138 § 21; 1977 ex.s. c 206 § 3; 1975 1st ex.s. c 260 § 9A.32.040. (2) 1981 c 136 § 55, repealed by 1982 c 10 § 18.]

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 138: See RCW 10.95.900.

Effective date—1981 c 136: See RCW 72.09.900.

Capital punishment—Aggravated first degree murder: Chapter 10.95 RCW.

9A.32.047 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9A.36

ASSAULT AND OTHER CRIMES INVOLVING PHYSICAL HARM

Sections

9A.36.030 Assault in the third degree.
9A.36.090 Threats against governor or family.

9A.36.030 Assault in the third degree. (1) Every person who, under circumstances not amounting to assault in either the first or second degree, shall be guilty of assault in the third degree when he:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of himself or another person shall assault another; or

(b) With criminal negligence, shall cause physical injury to another person by means of a weapon or other instrument or thing likely to produce bodily harm; or

(c) Assaults a person employed as a transit operator or driver by a public or private transit company while that person is operating or is in control of a vehicle owned or operated by the transit company.

(2) Assault in the third degree is a class C felony. [1982 c 140 § 1; 1979 ex.s. c 244 § 10; 1975 1st ex.s. c 260 § 9A.36.030.]

Effective date—1979 ex.s. c 244: See RCW 9A.44.902.

9A.36.090 Threats against governor or family. (1) Whoever knowingly and wilfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon the governor of the state or his immediate family, the governor-elect, the lieutenant governor, other officer next in the order of succession to the office of governor of the state, or the lieutenant governor-elect, or knowingly and wilfully otherwise makes any such threat against the governor, governor-elect, lieutenant governor, other officer next in the order of succession to the office of governor, or lieutenant governor-elect, shall be guilty of a class C felony.

(2) As used in this section, the term "governor-elect" and "lieutenant governor-elect" means such persons as are the successful candidates for the offices of governor and lieutenant governor, respectively, as ascertained from the results of the general election. As used in this section, the phrase "other officer next in the order of

succession to the office of governor" means the person other than the lieutenant governor next in order of succession to the office of governor under Article 3, section 10 of the state Constitution.

(3) The Washington state patrol may investigate for violations of this section. [1982 c 185 § 1.]

Reviser's note: 1982 c 185 § 2 directed that this section constitute a new chapter in Title 9 RCW. Since this placement appears inappropriate, this section has been codified as part of chapter 9A.36 RCW.

Chapter 9A.44 SEXUAL OFFENSES

Sections

- 9A.44.040 Rape in the first degree.
9A.44.045 Minimum term for first degree rape—Restrictions on release from confinement—Application to offenses before July 1, 1984.
9A.44.120 Admissibility of child's statement—Conditions.

Council on child abuse and neglect: Chapter 43.121 RCW.

9A.44.040 Rape in the first degree. (1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person not married to the perpetrator by forcible compulsion where the perpetrator or an accessory:

- (a) Uses or threatens to use a deadly weapon; or
- (b) Kidnaps the victim; or
- (c) Inflicts serious physical injury; or
- (d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony. [1982 c 192 § 11; 1982 c 10 § 3. Prior: (1) 1981 c 137 § 36; 1979 ex.s. c 244 § 1; 1975 1st ex.s. c 247 § 1; 1975 1st ex.s. c 14 § 4. (2) 1981 c 136 § 57, repealed by 1982 c 10 § 18. Formerly RCW 9.79.170.]

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 137: See RCW 9.94A.910.

Effective date—1981 c 136: See RCW 72.09.900.

9A.44.045 Minimum term for first degree rape—Restrictions on release from confinement—Application to offenses before July 1, 1984. No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility: *Provided*, That every person convicted of rape in the first degree shall be confined for a minimum of three years: *Provided further*, That the board of prison terms and paroles shall have authority to set a period of confinement greater than three years but shall never reduce the minimum three-year period of confinement; nor shall the board release the convicted person during the first three years of confinement as a result of any type of good time calculation; nor shall the department of corrections permit the convicted person to participate in any work release program or furlough program during the first three years of confinement. This section applies only to offenses committed prior to July 1, 1984. [1982 c 192 § 12.]

9A.44.120 Admissibility of child's statement—Conditions. A statement made by a child when under the age of ten describing any act of sexual contact performed with or on the child by another, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of the state of Washington if:

- (1) The court finds, in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and
- (2) The child either:
 - (a) Testifies at the proceedings; or
 - (b) Is unavailable as a witness: *Provided*, That when the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party his intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to prepare to meet the statement. [1982 c 129 § 2.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Chapter 9A.52 BURGLARY AND TRESPASS

Sections

- 9A.52.095 Vehicle prowling in the first degree.
9A.52.100 Vehicle prowling in the second degree.

9A.52.095 Vehicle prowling in the first degree. (1) A person is guilty of vehicle prowling in the first degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a motor home, as defined in RCW 46.04.305, or in a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

(2) Vehicle prowling in the first degree is a class C felony. [1982 1st ex.s. c 47 § 13.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9A.52.100 Vehicle prowling in the second degree. (1) A person is guilty of vehicle prowling in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a vehicle other than a motor home, as defined in RCW 46.04.305, or a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

(2) Vehicle prowling in the second degree is a gross misdemeanor. [1982 1st ex.s. c 47 § 14; 1975 1st ex.s. c 260 § 9A.52.100.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Chapter 9A.56
THEFT AND ROBBERY

Sections

- 9A.56.040 Theft in the second degree.
9A.56.060 Unlawful issuance of checks or drafts.

9A.56.040 Theft in the second degree. (1) A person is guilty of theft in the second degree if he commits theft of:

- (a) Property or services which exceed(s) two hundred and fifty dollars in value, but does not exceed one thousand five hundred dollars in value; or
- (b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or
- (c) A credit card; or
- (d) A motor vehicle, of a value less than one thousand five hundred dollars; or
- (e) A firearm, of a value less than one thousand five hundred dollars.

(2) Theft in the second degree is a class C felony. [1982 1st ex.s. c 47 § 15; 1975 1st ex.s. c 260 § 9A.56.040.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Civil action for shoplifting by adults, minors: RCW 4.24.230.

9A.56.060 Unlawful issuance of checks or drafts. (1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he has not sufficient funds in, or credit with said bank or other depository, to meet said check or draft, in full upon its presentation, shall be guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor said check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty days of issuing said check or draft shall be guilty of unlawful issuance of a bank check.

(3) When any series of transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of two hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may

be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor.

(4) Unlawful issuance of a bank check in an amount greater than two hundred fifty dollars is a class C felony.

(5) Unlawful issuance of a bank check in an amount of two hundred fifty dollars or less is a gross misdemeanor and shall be punished as follows:

(a) The court shall order the defendant to make full restitution;

(b) The defendant need not be imprisoned, but the court shall impose a minimum fine of five hundred dollars. Of the fine imposed, at least fifty dollars shall not be suspended or deferred. Upon conviction for a second offense within any twelve-month period, the court may suspend or defer only that portion of the fine which is in excess of five hundred dollars. [1982 c 138 § 1; 1979 ex.s. c 244 § 14; 1975 1st ex.s. c 260 § 9A.56.060.]

Effective date—1979 ex.s. c 244: See RCW 9A.44.902.

Chapter 9A.64
FAMILY OFFENSES

Sections

- 9A.64.020 Incest.

9A.64.020 Incest. (1) A person is guilty of incest in the first degree if he engages in sexual intercourse with a person whom he knows to be related to him, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.

(2) A person is guilty of incest in the second degree if he engages in sexual contact with a person whom he knows to be related to him, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.

(3) As used in this section, "descendant" includes stepchildren and adopted children under eighteen years of age.

(4) As used in this section, "sexual contact" has the same meaning as in RCW 9A.44.100(2).

(5) Incest in the first degree is a class B felony.

(6) Incest in the second degree is a class C felony. [1982 c 129 § 3; 1975 1st ex.s. c 260 § 9A.64.020.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Chapter 9A.72
PERJURY AND INTERFERENCE WITH OFFICIAL PROCEEDINGS

Sections

- 9A.72.090 Bribing a witness.
9A.72.100 Bribe receiving by a witness.
9A.72.110 Intimidating a witness.
9A.72.120 Tampering with a witness.

9A.72.090 Bribing a witness. (1) A person is guilty of bribing a witness if he offers, confers, or agrees to confer any benefit upon a witness or a person he has reason to believe is about to be called as a witness in any official proceeding or upon a person whom he has reason to believe may have information relevant to a criminal investigation, with intent to:

- (a) Influence the testimony of that person; or
- (b) Induce that person to avoid legal process summoning him to testify; or
- (c) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribing a witness is a class B felony. [1982 1st ex.s. c 47 § 16; 1975 1st ex.s. c 260 § 9A.72.090.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9A.72.100 Bribe receiving by a witness. (1) A witness or a person who has reason to believe he is about to be called as a witness in any official proceeding or that he may have information relevant to a criminal investigation is guilty of bribe receiving by a witness if he requests, accepts, or agrees to accept any benefit pursuant to an agreement or understanding that:

- (a) His testimony will thereby be influenced; or
- (b) He will attempt to avoid legal process summoning him to testify; or
- (c) He will attempt to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribe receiving by a witness is a class B felony. [1982 1st ex.s. c 47 § 17; 1975 1st ex.s. c 260 § 9A.72.100.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9A.72.110 Intimidating a witness. (1) A person is guilty of intimidating a witness if, by use of a threat directed to a witness or a person he has reason to believe is about to be called as a witness in any official proceeding or to a person whom he has reason to believe may have information relevant to a criminal investigation, he attempts to:

- (a) Influence the testimony of that person; or
- (b) Induce that person to elude legal process summoning him to testify; or
- (c) Induce that person to absent himself from such proceedings.

(2) "Threat" as used in this section means

(a) to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) threats as defined in RCW 9A.04.110(25).

(3) Intimidating a witness is a class B felony. [1982 1st ex.s. c 47 § 18; 1975 1st ex.s. c 260 § 9A.72.110.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9A.72.120 Tampering with a witness. (1) A person is guilty of tampering with a witness if he attempts to induce a witness or person he has reason to believe is about to be called as a witness in any official proceeding

or a person whom he has reason to believe may have information relevant to a criminal investigation to:

(a) Testify falsely or, without right or privilege to do so, to withhold any testimony; or

(b) Absent himself from such proceedings.

(2) Tampering with a witness is a class C felony. [1982 1st ex.s. c 47 § 19; 1975 1st ex.s. c 260 § 9A.72.120.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Chapter 9A.76

OBSTRUCTING GOVERNMENTAL OPERATION

Sections

9A.76.050	Rendering criminal assistance—Definition of term.
9A.76.070	Rendering criminal assistance in the first degree.
9A.76.080	Rendering criminal assistance in the second degree.
9A.76.110	Escape in the first degree.
9A.76.120	Escape in the second degree.
9A.76.200	Harming a police dog.

9A.76.050 Rendering criminal assistance—Definition of term. As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person "renders criminal assistance" if, with intent to prevent, hinder, or delay the apprehension or prosecution of another person who he knows has committed a crime or juvenile offense or is being sought by law enforcement officials for the commission of a crime or juvenile offense or has escaped from a detention facility, he:

- (1) Harbors or conceals such person; or
- (2) Warns such person of impending discovery or apprehension; or

(3) Provides such person with money, transportation, disguise, or other means of avoiding discovery or apprehension; or

(4) Prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or

(5) Conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of such person; or

(6) Provides such person with a weapon. [1982 1st ex.s. c 47 § 20; 1975 1st ex.s. c 260 § 9A.76.050.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9A.76.070 Rendering criminal assistance in the first degree. (1) A person is guilty of rendering criminal assistance in the first degree if he renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony or equivalent juvenile offense.

(2) Rendering criminal assistance in the first degree is:

(a) A gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060;

(b) A class C felony in all other cases. [1982 1st ex.s. c 47 § 21; 1975 1st ex.s. c 260 § 9A.76.070.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9A.76.080 Rendering criminal assistance in the second degree. (1) A person is guilty of rendering criminal assistance in the second degree if he renders criminal assistance to a person who has committed or is being sought for a class B or class C felony or an equivalent juvenile offense or to someone being sought for violation of parole, probation, or community supervision.

(2) Rendering criminal assistance in the second degree is:

(a) A misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060;

(b) A gross misdemeanor in all other cases. [1982 1st ex.s. c 47 § 22; 1975 1st ex.s. c 260 § 9A.76.080.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

9A.76.110 Escape in the first degree. (1) A person is guilty of escape in the first degree if, being detained pursuant to a conviction of a felony or an equivalent juvenile offense, he escapes from custody or a detention facility.

(2) Escape in the first degree is a class B felony. [1982 1st ex.s. c 47 § 23; 1975 1st ex.s. c 260 § 9A.76.110.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Term of escaped prisoner recaptured: RCW 9.31.090.

9A.76.120 Escape in the second degree. (1) A person is guilty of escape in the second degree if:

(a) He escapes from a detention facility; or

(b) Having been charged with a felony or an equivalent juvenile offense, he escapes from custody.

(2) Escape in the second degree is a class C felony. [1982 1st ex.s. c 47 § 24; 1975 1st ex.s. c 260 § 9A.76.120.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Term of escaped prisoner recaptured: RCW 9.31.090.

9A.76.200 Harming a police dog. (1) A person is guilty of harming a police dog if he wilfully injures, disables, shoots, or kills by any means any dog used by a peace officer in discharging or attempting to discharge any legal duty or power of his office.

(2) Harming a police dog is a class C felony. [1982 c 22 § 2.]

Title 10

CRIMINAL PROCEDURE

Chapters

- 10.05** Deferred prosecution—Courts of limited jurisdiction.
- 10.43** Former acquittal or conviction.
- 10.64** Judgments and sentences.

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- 10.77** Criminally insane—Procedures.
- 10.82** Collection and disposition of fines and costs.

Chapter 10.05

DEFERRED PROSECUTION—COURTS OF LIMITED JURISDICTION

Sections

- 10.05.010 Eligibility—Time for petition.

10.05.010 Eligibility—Time for petition. Upon arraignment in a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. A person charged with a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. Such person shall not be eligible for a deferred prosecution program more than once in any five-year period. [1982 1st ex.s. c 47 § 26; 1975 1st ex.s. c 244 § 1.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Chapter 10.43

FORMER ACQUITTAL OR CONVICTION

Sections

- 10.43.010 Repealed.

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

Chapter 10.64

JUDGMENTS AND SENTENCES

Sections

- 10.64.120 Misdemeanant assessments.

Assessments required of other convicted persons
parolees: RCW 72.04A.120.
probationers: RCW 9.94A.270.

10.64.120 Misdemeanant assessments. (1) Every judge of a court of limited jurisdiction shall have the authority to levy upon each misdemeanor a monthly assessment not to exceed fifty dollars for services provided whenever such a person is referred by the court to the misdemeanor probation department for evaluation or supervision services. The assessment may also be made by a sentencing judge in superior court when such misdemeanor or gross misdemeanor cases are heard in the superior court.

(2) It shall be the responsibility of the misdemeanor probation services office to implement local procedures approved by the court of limited jurisdiction to ensure collection and payment of such fees into the general fund of the city or county treasury.

(3) Revenues raised under this section shall be used to fund programs for misdemeanor probation services and shall be in addition to those funds provided in RCW 3.62.050. [1982 c 207 § 4.]

Chapter 10.77

CRIMINALLY INSANE—PROCEDURES

Sections

10.77.150	Conditional release—Application—Procedure.
10.77.190	Conditional release—Modification of terms—Procedure.
10.77.220	Incarceration in correctional institution or facility prohibited—Exceptions.

10.77.150 Conditional release—Application—Procedure. (1) Persons examined pursuant to RCW 10.77.140, as now or hereafter amended, may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered his commitment the person's application for conditional release as well as his recommendations concerning the application and any proposed terms and conditions upon which he reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) The court of the county which ordered his commitment, upon receipt of an application for conditional release with the secretary's recommendation for conditional release, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary. The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of his choice. If the committed person is indigent, and he so requests, the court shall appoint a qualified expert or professional person to examine him on his behalf. The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing felonious acts jeopardizing public safety or security. The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary.

(3) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him to report to a physician or other person for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the

physician or other person shall immediately upon the released person's failure to appear for the medication or treatment report the failure to the court and to the prosecuting attorney of the county in which the released person was committed.

(4) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial. [1982 c 112 § 1; 1974 ex.s. c 198 § 13; 1973 1st ex.s. c 117 § 15.]

10.77.190 Conditional release—Modification of terms—Procedure. (1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his conditional release the court or secretary may order that the conditionally released person be apprehended and taken into custody until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified. The court shall be notified before the close of the next judicial day of the apprehension. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary shall, upon request, assist him in obtaining a qualified expert or professional person to conduct the examination.

(3) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his release. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his conditional release shall be revoked and he shall be committed subject to release only in accordance with provisions of this chapter. [1982 c 112 § 2; 1974 ex.s. c 198 § 15; 1973 1st ex.s. c 117 § 19.]

10.77.220 Incarceration in correctional institution or facility prohibited—Exceptions. No person confined pursuant to this chapter shall be incarcerated in a state correctional institution or facility: *Provided*, That nothing herein shall prohibit confinement in a mental health facility located wholly within a correctional institution. Confinement in a county jail or other local facility while awaiting either placement in a treatment program or a court hearing pursuant to this chapter is permitted for

no more than seven days. [1982 c 112 § 3; 1974 ex.s. c 198 § 17; 1973 1st ex.s. c 117 § 22.]

Chapter 10.82

COLLECTION AND DISPOSITION OF FINES AND COSTS

Sections

10.82.080 Unlawful receipt of public assistance—Restitution payments—Deduction from subsequent assistance payments.

10.82.080 Unlawful receipt of public assistance—Restitution payments—Deduction from subsequent assistance payments. (1) When a superior court has, as a condition of the sentence for a person convicted of the unlawful receipt of public assistance, ordered restitution to the state of that overpayment or a portion thereof, the payments shall be made to the clerk of the appropriate county.

(2) The county clerk shall transmit those funds to the department of social and health services within forty-five days after receipt.

(3) The department of social and health services shall not be precluded from deducting the overpayments from subsequent assistance payments to the convicted person as provided in RCW 74.04.300 if the court has not ordered restitution under subsection (1) of this section. [1982 c 201 § 1.]

Title 13

JUVENILE COURTS AND JUVENILE OFFENDERS

Chapters

13.34 Juvenile court act in cases relating to dependency of a child and the termination of a parent and child relationship.

Council on child abuse and neglect: Chapter 43.121 RCW.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 13.34

JUVENILE COURT ACT IN CASES RELATING TO DEPENDENCY OF A CHILD AND THE TERMINATION OF A PARENT AND CHILD RELATIONSHIP

Sections

13.34.030 Definitions—"Child," "juvenile," "dependent child."
13.34.060 Placing child in shelter care—Court procedures and rights of parties—Release from, when—Amendments to orders.

13.34.030 Definitions—"Child," "juvenile," "dependent child." For purposes of this chapter:

(1) "Child" and "juvenile" means any individual under the age of eighteen years;

(2) "Dependent child" means any child:

(a) Who has been abandoned; that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so; or

(b) Who is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Who has no parent, guardian, or custodian willing and capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development. [1982 c 129 § 4; 1979 c 155 § 37; 1977 ex.s. c 291 § 31.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Appropriation—Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.060 Placing child in shelter care—Court procedures and rights of parties—Release from, when—Amendments to orders. (1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to that section. Whenever a child is taken into such custody pursuant to this section, the supervising agency may authorize routine medical and dental examination and care and all necessary emergency care. In no case may a child who is taken into custody pursuant to RCW 13.34.050 or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing if one is requested.

(2) The juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(3) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in RCW 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not been retained by the parent or guardian and if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived.

(4) The court shall examine the need for shelter care. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(5) The juvenile court probation counselor shall submit a recommendation to the court as to the further need for shelter care, except that such recommendation

shall be submitted by the department of social and health services in cases where the petition alleging dependency has been filed by the department of social and health services, unless otherwise ordered by the court.

(6) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(a) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(b) The release of such child would present a serious threat of substantial harm to such child.

If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order.

(7) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(8) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. No child may be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care. [1982 c 129 § 5; 1979 c 155 § 39; 1977 ex.s. c 291 § 34.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Appropriation—Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

Title 15

AGRICULTURE AND MARKETING

Chapters

- 15.09 Horticultural pest and disease board.
- 15.13 Horticultural plants and facilities—Inspection and licensing.
- 15.36 Fluid milk.
- 15.49 Washington state seed act.
- 15.53 Commercial feed.
- 15.58 Washington pesticide control act.
- 15.65 Washington state agricultural enabling act of 1961.
- 15.66 Washington agricultural enabling act of 1955.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 15.09

HORTICULTURAL PEST AND DISEASE BOARD

Sections

- 15.09.080 Notice and order to control pests and diseases—Authority of board to perform control measures—Expenses charged to owner.

15.09.080 Notice and order to control pests and diseases—Authority of board to perform control measures—Expenses charged to owner. (1) Whenever the horticultural pest and disease control board finds that an owner of land has failed to control and prevent the spread of horticultural pests and diseases on his land, as is his duty under RCW 15.09.060, it shall provide such person with written notice, which notice shall identify the pests and diseases found to be present and shall order prompt control or disinfection action to be taken within a specified and reasonable time period.

(2) If the person to whom the notice is directed fails to take action in accordance with this notice, then the board shall perform or cause to be performed such measures as are necessary to control and prevent the spread of the pests and diseases on such property and the expense of this work shall be charged to such person. [1982 c 153 § 4; 1969 c 113 § 8.]

Severability—Effective date—1982 c 153: See notes following RCW 17.24.200.

Chapter 15.13

HORTICULTURAL PLANTS AND FACILITIES—INSPECTION AND LICENSING

Sections

- 15.13.250 Definitions.
- 15.13.280 Nursery dealer licenses—Application—Fee—Expiration—Posting.
- 15.13.290 Nursery dealer licenses—Additional charge for late renewal.
- 15.13.300 Nursery dealer licenses—Application—Contents.

15.13.250 Definitions. For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly appointed representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society and association, and every officer, agent or employee thereof.

(4) "Horticultural plant" includes, but is not limited to, any horticultural, floricultural, viticultural, and olericultural plant, for planting, propagation or ornamentation growing or otherwise, including cut plant material.

(5) "Horticultural facilities" means, but is not limited to, the premises where horticultural plants and/or cut plant material are grown, stored, handled or delivered for sale or transportation, and all vehicles and equipment, whether aerial or surface, used to transport such horticultural plants and/or cut plant material.

(6) "Plant pests" means, but is not limited to any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants, weeds, or reproductive parts thereof, viruses or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in any plant or parts thereof, or any processed, manufactured, or other products of plants.

(7) "Inspection and/or certification" means, but is not limited to, the inspection of any horticultural plants and/or cut plant material at any time prior to, during, or subsequent to harvest, or sale, by the director, and the issuance by him of a written certificate stating the grades, classifications, and if such horticultural plants and/or cut plant material are free of plant pests and in compliance with all the provisions of this chapter and rules adopted hereunder.

(8) "Nursery dealer" means any person who sells, holds for sale, or offers for sale, or plants, grows, receives, or handles horticultural plants and/or cut plant material, including turf for sale or for planting, including lawns, for another person.

(9) "Sell" means to sell, hold for sale, offer for sale, handle, or to use as an inducement for the sale of another article or product.

(10) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 19; 1971 ex.s. c 33 § 1.]

Severability—1982 c 182: See RCW 19.02.901.

15.13.280 Nursery dealer licenses—Application—Fee—Expiration—Posting. No person shall act as a nursery dealer without a license for each place of business where horticultural plants are sold. Any person applying for such a license shall apply through the master license system. Such application shall be accompanied by a license fee of twenty-five dollars. Such license shall expire on the master license expiration date unless it has been revoked or suspended prior thereto by the director for cause. Each such license shall be posted in a conspicuous place open to the public in the location for which it was issued. [1982 c 182 § 20; 1971 ex.s. c 33 § 4.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

expiration date: RCW 19.02.090.

system

existing licenses or permits registered under, when: RCW 19.02.810.

generally: RCW 15.13.250(10).

to include additional licenses: RCW 19.02.110.

15.13.290 Nursery dealer licenses—Additional charge for late renewal. If any application for renewal of nursery dealer license is not filed prior to the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license shall be issued. [1982 c 182 § 21; 1971 ex.s. c 33 § 5.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

delinquency fee—Rate—Disposition: RCW 19.02.085.

expiration date: RCW 19.02.090.

system—Existing licenses or permits registered under, when: RCW 19.02.810.

15.13.300 Nursery dealer licenses—Application—Contents. Application for a license shall be made through the master license system and shall include:

(1) The full name of the person applying for such license and if the 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 in the application.

(2) The principal business address of the applicant in the state and elsewhere.

(3) The address for the location or locations for which the licenses are being applied.

(4) The names of the persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant.

(5) Any other necessary information prescribed by the director. [1982 c 182 § 22; 1971 ex.s. c 33 § 6.]

Severability—1982 c 182: See RCW 19.02.901.

Master license system

existing licenses or permits registered under, when: RCW 19.02.810.

generally: Chapter 19.02 RCW.

Chapter 15.36

FLUID MILK

Sections

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| 15.36.055 | Definitions—"Official brucellosis adult vaccinated cattle". |
| 15.36.150 | Cows—Tuberculosis, brucellosis, other diseases. |

15.36.055 Definitions—"Official brucellosis adult vaccinated cattle". "Official brucellosis adult vaccinated cattle" means those cattle, officially vaccinated over the age of official calthood vaccinated cattle, which the director has determined have been commingled with, or kept in close proximity to, cattle identified as brucellosis reactors, and have been vaccinated against brucellosis in a manner and under the conditions prescribed by the director after a hearing and under rules adopted under chapter 34.04 RCW, the administrative procedure act. [1982 c 131 § 1.]

15.36.150 Cows—Tuberculosis, brucellosis, other diseases. Except as provided hereinafter, tuberculin test of all herds and additions thereto shall be made before any milk therefrom is sold, and at least once every twelve months thereafter, by an accredited and licensed veterinarian approved by the state department of agriculture or veterinarian employed by the bureau of animal industry, United States department of agriculture. Said tests shall be made and the reactors disposed of in accordance with the requirements approved by the director for accredited herds. A certificate signed by the veterinarian or attested to by the director and filed with the director shall be evidence of the above test: *Provided*, That in modified accredited counties in which the modified accredited area plan is applied to the dairy herds,

the modified accredited area system approved by the director shall be accepted in lieu of annual testing.

No fluid milk or cream designated or represented to be "grade A" fluid milk or cream shall be sold, offered or exposed for sale which has been produced from a herd of cows, one or more of which are infected with brucellosis at the time such milk is produced, or from animals in such herd which have not been blood tested for brucellosis at least once during the preceding calendar year, or milk ring tested for brucellosis at least semiannually during the preceding year. The results of a test for brucellosis by the state or federal laboratory of a blood sample drawn by an official veterinarian, shall be prima facie evidence of the infection or noninfection of the animal or herds: *Provided*, That in lieu thereof, two official negative milk ring tests for brucellosis not less than six months apart may be accepted as such evidence. All herds of cows, the fluid milk or cream from which is designated or represented to be "grade A" fluid milk or cream shall be blood tested for brucellosis annually or milk ring tested for brucellosis semiannually. Such herds showing any reaction to the milk ring test shall be blood tested and all reactors to the blood test removed from the herd and disposed of within fifteen days from the date they are tagged and branded. The remaining animals in the infected herd shall be retested at not less than thirty-day nor more than sixty-day intervals from the date of the first test: *Provided*, That herds that have been officially brucellosis adult vaccinated shall be retested not less than sixty days nor more than one hundred fifty days after being so vaccinated and such herds shall be retested and released from quarantine at intervals and under conditions prescribed by the director. A series of retests, with removal and disposition of reacting animals, shall be continued until the herd shall have passed two successive tests in which no reactors are found. If upon a final test, not less than six months nor more than seven months from the date of the last negative test, no reactors are found in the herd, it shall be deemed a disease free herd. Results of official blood or milk ring tests shall be conspicuously displayed in the milk house.

All milk and milk products consumed raw shall be from herds or additions thereto which have been found free from brucellosis, as shown by blood serum tests or other approved tests for agglutinins against brucella organisms made in a laboratory approved by the director. All such herds shall be retested at least every twelve months and all reactors removed from the herd. If a herd is found to have one or more animals positive to the brucellosis test, all milk from that herd is to be pasteurized until the three consecutive brucellosis tests obtained at thirty-day intervals between each test are found to be negative. A certificate identifying each animal by number and signed by the laboratory making the test shall be evidence of the above test.

Cows which show an extensive or entire induration of one or more quarters of the udder upon physical examination, whether secreting abnormal milk or not, shall be permanently excluded from the milking herd. Cows giving bloody, or stringy, or otherwise abnormal milk, but

with only slight induration of the udder shall be excluded from the herd until reexamination shows that the milk has become normal.

For other diseases such tests and examinations as the director may require after consultation with state livestock sanitary officials shall be made at intervals and by methods prescribed by him. [1982 c 131 § 2; 1961 c 11 § 15.36.150. Prior: 1955 c 238 § 15; prior: 1949 c 168 § 7, part; Rem. Supp. 1949 § 6266-36, part.]

Chapter 15.49

WASHINGTON STATE SEED ACT

Sections

15.49.035	Master license system.
15.49.380	Dealer's license to distribute seeds.
15.49.390	Renewal of dealer's license.

15.49.035 Master license system. "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 23.]

Severability—1982 c 182: See RCW 19.02.901.

15.49.380 Dealer's license to distribute seeds. (1) No person shall distribute seeds without having obtained a dealer's license for each regular place of business: *Provided*, That no license shall be required of a person who distributes seeds only in sealed packages of eight ounces or less, packed by a seed labeling registrant and bearing the name and address of the registrant: *Provided further*, That a license shall not be required of any grower selling seeds of his own production exclusively. Such seed sold by such grower must be properly labeled as provided in this chapter. Each dealer's license shall cost twenty-five dollars, shall be issued through the master license system, shall bear the date of issue, shall expire on the master license expiration date and shall be prominently displayed in each place of business.

(2) Persons custom conditioning and/or custom treating seeds for others for remuneration shall be considered dealers for the purpose of this chapter.

(3) Application for a license to distribute seed shall be through the master license system and shall include the name and address of the person applying for the license, the name of a person domiciled in this state authorized to receive and accept service or legal notices of all kinds, and any other reasonable and practical information prescribed by the department necessary to carry out the purposes and provisions of this chapter. [1982 c 182 § 24; 1981 c 297 § 15; 1969 c 63 § 38.]

Severability—1982 c 182: See RCW 19.02.901.

Severability—1981 c 297: See note following RCW 15.36.110.

Master license system

existing licenses or permits registered under, when: RCW 19.02.810.

generally: RCW 15.49.035.

to include additional licenses: RCW 19.02.110.

15.49.390 Renewal of dealer's license. If an application for renewal of the dealer's license provided for in RCW 15.49.380, is not filed prior to the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license shall be issued. [1982 c 182 § 25; 1969 c 63 § 39.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

delinquency fee—Rate—Disposition: RCW 19.02.085.
expiration date: RCW 19.02.090.

system—Existing licenses or permits registered under, when: RCW 19.02.810.

Chapter 15.53 COMMERCIAL FEED

Sections

15.53.901	Definitions.
15.53.9014	Registration of feeds—Exemptions—Application—Renewal—Fees—May be refused.
15.53.9018	Inspection fees—Reports—Confidentiality, exception.
15.53.902	Adulteration.
15.53.9038	Department's remedies for noncompliance—"Withdrawal from distribution" order—Condemnation—Seizure.

15.53.901 Definitions. The definitions set forth in this section apply through [throughout] this chapter.

(1) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

(2) "Person" means a natural person, individual, firm, partnership, corporation, company, society, or association.

(3) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend commercial feed, or to offer for sale, sell, barter, or otherwise supply commercial feed in this state.

(4) "Distributor" means any person who distributes.

(5) "Sell" or "sale" includes exchange.

(6) "Commercial feed" means all materials including customer-formula feed which are distributed for use as feed or for mixing in feed, for animals other than man.

(7) "Feed ingredient" means each of the constituent materials making up a commercial feed.

(8) "Customer-formula feed" means a mixture of commercial feed and/or materials each batch of which is mixed according to the specific instructions of the final purchaser or contract feeder.

(9) "Brand" means the term, design, trademark, or other specific designation under which an individual commercial feed is distributed in this state.

(10) "Product" means the name of the commercial feed that identifies it as to kind, class, or specific use.

(11) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

(12) "Labeling" means all labels and other written, printed, or graphic matter upon a commercial feed or

any of its containers or wrappers, or otherwise accompanying such commercial feed.

(13) "Ton" means a net weight of two thousand pounds avoirdupois.

(14) "Percent" or "percentage" means percentage by weight.

(15) "Official sample" means any sample of feed taken by the department, obtained and analyzed as provided in RCW 15.53.9024.

(16) "Contract feeder" means an independent contractor, or any other person who feeds commercial feed to animals pursuant to an oral or written agreement whereby such commercial feed is supplied, furnished or otherwise provided to such person by any distributor and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product: *Provided*, That it shall not include a bona fide employee of a manufacturer or distributor of commercial feed.

(17) "Retail" means to distribute to the ultimate consumer. [1982 c 177 § 1; 1975 1st ex.s. c 257 § 3; 1965 ex.s. c 31 § 2. Prior acts on this subject: 1961 c 11 §§ 15.53.010 through 15.53.900; 1953 c 80 §§ 1-35.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.53.9014 Registration of feeds—Exemptions—Application—Renewal—Fees—May be refused. (1) Each commercial feed shall be registered with the department and such registration shall be renewed annually before such commercial feed may be distributed in this state: *Provided*, That sales of food processing byproducts from fruit, vegetable, or potato processing plants, freezing or dehydrating facilities, or juice or jelly preserving plants; unmixed seed, whole or processed, made directly from the entire seed; unground hay, straw, stover, silage, cobs, husks, and hulls, when not mixed with other material; bona fide experimental feeds on which accurate records and experimental programs are maintained; and customer-formula feeds are exempt from such registration. The exemption for byproducts provided by this subsection does not apply to byproducts or products of sugar refineries or to materials used in the preparation of pet foods.

(a) Beginning July 1, 1982, each registration for a commercial feed product distributed in packages of ten pounds or more shall be accompanied by a fee of ten dollars. If such commercial feed is also distributed in packages of less than ten pounds it shall be registered under subsection (b) of this section.

(b) Beginning July 1, 1982, each registration for a commercial feed product distributed in packages of less than ten pounds shall be accompanied by an annual registration fee of forty dollars on each such commercial feed so distributed, but no inspection fee may be collected on packages of less than ten pounds of the commercial feed so registered.

(2) The application for registration shall be on forms provided by the department.

(3) The department may require that such application be accompanied by a label and/or other printed matter

describing the product. All registrations expire on December 31st of each year, and are renewable unless such registration is canceled by the department or it has called for a new registration, or unless canceled by the registrant.

(4) The application shall include the information required by RCW 15.53.9016(1)(b) through (1)(e).

(5) A distributor shall not be required to register any commercial feed brand or product which is already registered under the provisions of this chapter.

(6) Changes in the guarantee of either chemical or ingredient composition of a commercial feed registered under the provisions of this chapter may be permitted if there is satisfactory evidence that such changes would not result in a lowering of the feed value of the product for the purpose for which designed.

(7) The department is empowered to refuse registration of any application not in compliance with the provisions of this chapter and to cancel any registration subsequently found to be not in compliance with any provisions of this chapter, but a registration shall not be refused or canceled until the registrant has been given opportunity to be heard before the department and to amend his application in order to comply with the requirements of this chapter.

(8) If an application for renewal of the registration provided for in this section is not filed prior to January 1st of any one year, a penalty of ten dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal registration may be issued, unless the applicant furnishes an affidavit that he has not distributed this feed subsequent to the expiration of his prior registration. [1982 c 177 § 2; 1975 1st ex.s. c 257 § 4; 1965 ex.s. c 31 § 4.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.53.9018 Inspection fees—Reports—Confidentiality, exception. (1) On or after June 30, 1981, each initial distributor of a commercial feed in this state shall pay to the department an inspection fee on all commercial feed sold by such person during the year. The fee shall be not less than four cents nor more than fourteen cents per ton as prescribed by the director by rule: *Provided*, That such fees shall be used for routine enforcement of RCW 15.53.9022 and for analysis for contaminants only when the department has reasonable cause to believe any lot of feed or any feed ingredient is adulterated.

(2) In computing the tonnage on which the inspection fee must be paid, sales of: (a) Commercial feed to other feed registrants; (b) commercial feed in packages weighing less than ten pounds; (c) commercial feed for shipment to points outside this state; (d) food processing byproducts from fruit, vegetable, or potato processing plants, freezing or dehydrating facilities, or juice or jelly preserving plants; (e) unmixed seed, whole or processed, made directly from the entire seed; (f) unground hay, straw, stover, silage, cobs, husks, and hulls, when not

mixed with other material; and (g) bona fide experimental feeds on which accurate records and experimental programs are maintained may be excluded. The exemption for byproducts provided by this subsection does not apply to byproducts or products of sugar refineries or to materials used in the preparation of pet foods.

(3) When more than one distributor is involved in the distribution of a commercial feed, the last registrant or initial distributor who distributes to a nonregistrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fee, unless the reporting and paying of fees have been made by a prior distributor of the feed.

(4) Each person made responsible by this chapter for the payment of inspection fees for commercial feed sold in this state shall file a report with the department on January 1st and July 1st of each year showing the number of tons of such commercial feed sold during the six calendar months immediately preceding the date the report is due. The proper inspection fee shall be remitted with the report. The person required to file the report and pay the fee shall have a thirty-day period of grace immediately following the day the report and payment are due to file the report, and pay the fee. Upon permission of the department, an annual statement under oath may be filed by any person distributing within the state less than one hundred tons for each six-month period during any year, and upon filing such statement such person shall pay the inspection fee at the rate provided for in subsection (1) of this section.

(5) Each distributor shall keep such reasonable and practical records as may be necessary or required by the department to indicate accurately the tonnage of commercial feed distributed in this state, and the department has the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein constitutes a violation of this chapter, and may result in the issuance of an order for "withdrawal from distribution" on any commercial feed being subsequently distributed.

(6) Inspection fees which are due and owing and have not been remitted to the department within thirty days following the due date shall have a collection fee of ten percent, but not less than ten dollars, added to the amount due when payment is finally made. The assessment of this collection fee shall not prevent the department from taking other actions as provided for in this chapter.

(7) The report required by subsection (4) of this section shall not be a public record, and it is a misdemeanor for any person to divulge any information given in such report which would reveal the business operation of the person making the report: *Provided*, That nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person if any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and

which shall be as an action at law in the name of the director of the department.

(8) Any commercial feed purchased by a consumer or contract feeder outside the jurisdiction of this state and brought into this state for use is subject to all the provisions of this chapter, including inspection fees. [1982 c 177 § 3; 1981 c 297 § 17; 1979 c 91 § 1; 1975 1st ex.s. c 257 § 5; 1967 c 240 § 32; 1965 ex.s. c 31 § 6.]

Effective date—1981 c 297 § 17: "Section 17 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1981." [1981 c 297 § 44.] This applies to the 1981 c 297 amendment to RCW 15.53.9018.

Severability—1981 c 297: See note following RCW 15.36.110.

Effective date—1979 c 91: "This act shall take effect on January 1, 1980." [1979 c 91 § 2.] This applies to the amendment to this section by 1979 c 91 § 1.

Construction—**Effective date**—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

Severability—1967 c 240: See note following RCW 43.23.010.

15.53.902 Adulteration. It is unlawful for any person to distribute an adulterated feed. A commercial feed is deemed to be adulterated:

(1) 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 commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or

(2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (a) a pesticide chemical in or on a raw agricultural commodity; or (b) a food additive); or

(3) If it is, or it bears, or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act; or

(4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act: *Provided*, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act; or

(5) If it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act; or

(6) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;

(7) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling; or

(8) If it contains viable, prohibited (primary) noxious weed seeds in excess of one per pound, or if it contains viable, restricted (secondary) noxious weed seeds in excess of twenty-five per pound. The primary and secondary noxious weed seeds shall be those as named pursuant to the provisions of chapter 15.49 RCW as enacted or hereafter amended and rules adopted thereunder. [1982 c 177 § 4; 1979 c 154 § 2; 1965 ex.s. c 31 § 7.]

Severability—1979 c 154: See note following RCW 15.49.330.

15.53.9038 Department's remedies for noncompliance—"Withdrawal from distribution" order—

Condemnation—Seizure. (1) When the department has reasonable cause to believe that any lot of commercial feed is adulterated or misbranded or is being distributed in violation of this chapter or any regulations hereunder it may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the department or a court of competent jurisdiction. The department shall release the lot of commercial feed so withdrawn when the provisions and regulations have been complied with. If compliance is not obtained within thirty days, the department may begin proceedings for condemnation.

(2) Any lot of commercial feed not in compliance with the provisions and regulations is subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the commercial feed is located. If the court finds the commercial feed to be in violation of this chapter and orders the condemnation of the commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. The court shall first give the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter. [1982 c 177 § 5; 1975 1st ex.s. c 257 § 7; 1965 ex.s. c 31 § 16.]

Construction—**Effective date**—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

Chapter 15.58

WASHINGTON PESTICIDE CONTROL ACT

Sections

15.58.030	Definitions.
15.58.180	Pesticide dealer license—Fee—Application, contents—Pesticide dealer manager, unlawful to operate without—Exceptions.
15.58.190	Additional fee for late renewal of pesticide dealer license.

Emergency measures to prevent, control, or eradicate plant pests or plant diseases: RCW 17.24.200.

15.58.030 Definitions. As used in this chapter the words and phrases defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed and any other form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; (c) any substance or mixture of substances intended to be used as a spray adjuvant; and (d) any other substances intended for such use as may be named by the director by regulation.

(2) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests including devices used in conjunction with pesticides such as lindane vaporizers.

(3) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropod, or mollusk pest.

(4) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(5) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director may declare by regulation to be a pest.

(6) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed, including algae and other aquatic weeds.

(7) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(8) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(9) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(10) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(11) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a

package or container separate from that of the pesticide with which it is to be used.

(12) "Pest" means, but is not limited to, any insect, other arthropod, fungus, rodent, nematode, mollusk, weed and any form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare by regulation to be a pest.

(13) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

(14) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(15) "Insects" means any of the numerous small invertebrate animals whose bodies, in the adult stage, are more or less obviously segmented with six legs and usually with two pairs of wings, belonging to the class insecta; for example, aphids, beetles, bugs, bees, and flies.

(16) "Fungi" means all non-chlorophyll-bearing thallophtes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

(17) "Weed" means any plant which grows where not wanted.

(18) "Mollusk" means any invertebrate animal characterized by a soft unsegmented body usually partially or wholly enclosed in a calcareous shell, having a foot and mantle; for example, slugs and snails.

(19) "Restricted use pesticide" means any pesticide or device which the director has found and determined subsequent to hearing under the provisions of chapter 17.21 RCW Washington pesticide application act or this chapter as enacted or hereafter amended, to be so injurious to persons, pollinating insects, bees, animals, crops, wildlife, or lands other than the pests it is intended to prevent, destroy, control, or mitigate that additional restrictions are required.

(20) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

(21) "Pesticide dealer" means any person who distributes any of the following pesticides:

(a) "Highly toxic pesticides" and/or

(b) "EPA restricted use pesticides" or "restricted use pesticides" which by regulation are restricted to distribution by licensed pesticide dealers only and/or

(c) Any other pesticide except spray adjuvants and those pesticides which are labeled and intended for home and garden use only.

(22) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license.

(23) "Pest control consultant" means any individual who offers or supplies technical advice, supervision or aid or makes recommendations to the user of:

- (a) "Highly toxic pesticides" and/or
- (b) "EPA restricted use pesticides" or "restricted use pesticides" which are restricted by regulation to distribution by licensed pesticide dealers only and/or
- (c) Any other pesticides except spray adjuvants and those pesticides which are labeled and intended for home and garden use only.
- (24) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic: *Provided*, That in the case of a spray adjuvant the ingredient statement need contain only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants. If more than three functioning agents are present, only the three principal ones need be named.
- (25) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.
- (26) "Inert ingredient" means an ingredient which is not an active ingredient.
- (27) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.
- (28) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.
- (29) "Department" means the department of agriculture of the state of Washington.
- (30) "Director" means the director of the department or his duly authorized representative.
- (31) "Registrant" means the person registering any pesticide pursuant to the provisions of this chapter.
- (32) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or the immediate container thereof, and the outside container or wrapper of the retail package.
- (33) "Labeling" means all labels and other written, printed or graphic matter:
- (a) Upon the pesticide or device or any of its containers or wrappers;
- (b) Accompanying the pesticide, or referring to it in any other media used to disseminate information to the public; and
- (c) To which reference is made on the label or in literature accompanying or referring to the pesticide or device except when accurate nonmisleading reference is made to current official publications of the department, United States department of agriculture; interior; health, education and welfare; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
- (34) "Highly toxic" means any highly toxic pesticide as determined by the director under RCW 15.58.040.

(35) "Pesticide advisory board" means the pesticide advisory board as provided for in the Washington pesticide application act as enacted or hereafter amended.

(36) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(37) "Regulation" means rule or regulation.

(38) "EPA" means the United States environmental protection agency.

(39) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(40) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 135).

(41) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.

(42) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(43) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 26; 1979 c 146 § 1; 1971 ex.s. c 190 § 3.]

Severability—1982 c 182: See RCW 19.02.901.

15.58.180 Pesticide dealer license—Fee—Application, contents—Pesticide dealer manager, unlawful to operate without—Exceptions. (1) It shall be unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the director. The license shall expire on the master license expiration date. A license shall be required for each location or outlet located within this state from which such pesticides are distributed: *Provided*, That any manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes such pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet: *Provided further*, That such licensed out-of-state pesticide dealer shall be exempt from the pesticide dealer manager requirements.

(2) Application for a license shall be accompanied by a ten dollar annual license fee and shall be made through the master license system and shall include the full name of the person applying for such license and the name of the individual within the state designated as the pesticide dealer manager. If such applicant is a partnership, association, corporation, or organized group of persons, 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, 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.

(3) It shall be unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification. The department shall be notified forthwith of any change in the pesticide dealer manager designee during the licensing period.

(4) Provisions of this section shall not apply to a licensed pesticide applicator who sells pesticides only as an integral part of his pesticide application service when such pesticides are dispensed only through apparatuses used for such pesticide application; or any federal, state, county, or municipal agency which provides pesticides only for its own programs. [1982 c 182 § 27; 1971 ex.s. c 190 § 18.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

expiration date: RCW 19.02.090.

system

existing licenses or permits registered under, when: RCW 19.02.810.

generally: RCW 15.58.030(43).

to include additional licenses: RCW 19.02.110.

15.58.190 Additional fee for late renewal of pesticide dealer license. If an application for renewal of a pesticide dealer license is not filed on or prior to the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license shall be issued. [1982 c 182 § 28; 1971 ex.s. c 190 § 19.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

delinquency fee—Rate—Disposition: RCW 19.02.085.

expiration date: RCW 19.02.090.

system—Existing licenses or permits registered under, when: RCW 19.02.810.

Chapter 15.65

WASHINGTON STATE AGRICULTURAL ENABLING ACT OF 1961

Sections

15.65.490 Records of financial transactions to be kept by director—Audits.

15.65.490 Records of financial transactions to be kept by director—Audits. The director and each of his designees shall keep or cause to be kept separately for each agreement and order in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to such order or agreement, and the same shall be audited at least every five years subject to procedures and methods

lawfully prescribed by the state auditor. The books and accounts maintained under every such agreement and order shall be closed as of the last day of each fiscal year of the state of Washington or of a fiscal year determined by the director. A copy of every such audit shall be delivered within thirty days after the completion thereof to the governor and the commodity board of the agreement or order concerned. [1982 c 81 § 1; 1979 c 154 § 5; 1973 c 106 § 10; 1961 c 256 § 49.]

Severability—1979 c 154: See note following RCW 15.49.330.

Chapter 15.66

WASHINGTON AGRICULTURAL ENABLING ACT OF 1955

Sections

15.66.010 Definitions.
15.66.140 Commodity commission—Powers and duties.

15.66.010 Definitions. For the purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him concerning some matter under this chapter.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Agricultural commodity" means any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product within its natural or processed state, including bees and honey but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity. For the purposes of RCW 15.66.060, 15.66.090, and 15.66.120, as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Affected producer" means any producer of an affected commodity.

(7) "Affected commodity" means any agricultural commodity for which the director has established a list of producers pursuant to RCW 15.66.060.

(8) "Commodity commission" or "commission" means a commission formed to carry out the purposes of this chapter under a particular marketing order concerning an affected commodity.

(9) "Unit" means a unit of volume, quantity or other measure in which an agricultural commodity is commonly measured.

(10) "Unfair trade practice" means any practice which is unlawful or prohibited under the laws of the state of Washington including but not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77, 19.80, 19.84, 19.90, and 19.83 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the provisions of the act of Congress of the United States, September 26, 1914, chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known as the "Federal Trade Commission Act of 1914", or the violation of or failure accurately to label as to grades and standards in accordance with any lawfully established grades or standards or labels.

(11) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(13) "Member of a cooperative association" or "member" means any producer of an agricultural commodity who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is under a marketing agreement with such cooperative association with respect to such product. [1982 c 35 § 180; 1975 1st ex.s. c 7 § 6; 1961 c 11 § 15.66.010. Prior: 1955 c 191 § 1.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

15.66.140 Commodity commission—Powers and duties. Every marketing commission shall have such powers and duties in accordance with provisions of this chapter as may be provided in the marketing order and shall have the following powers and duties:

(1) To elect a chairman and such other officers as determined advisable;

(2) To adopt, rescind and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under the marketing order;

(3) To administer, enforce, direct and control the provisions of the marketing order and of this chapter relating thereto;

(4) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(5) To acquire personal property and lease office space and other necessary real property and transfer and convey the same;

(6) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of this chapter and of the marketing order;

(7) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the state auditor at least every five years;

(8) Borrow money and incur indebtedness;

(9) Make necessary disbursements for routine operating expenses;

(10) Such other powers and duties that are necessary to carry out the purposes of this chapter. [1982 c 81 § 2; 1961 c 11 § 15.66.140. Prior: 1955 c 191 § 14.]

Title 16

ANIMALS, ESTRAYS, BRANDS AND FENCES

Chapters

16.52 Prevention of cruelty to animals.

16.67 Washington state beef commission act.

Harming a police dog: RCW 9A.76.200.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 16.52

PREVENTION OF CRUELTY TO ANIMALS

Sections

16.52.030	Members as peace officers—Powers and duties.
16.52.065	Wanton cruelty to fowls.
16.52.070	Certain acts as cruelty—Penalty.
16.52.080	Transporting or confining in unsafe manner—Penalty.
16.52.100	Confinement without food and water.
16.52.113	Causing animals to fight—Injuring animals—Presence at event.
16.52.117	Dog fighting—Owners, trainers, spectators—Exceptions.
16.52.120	Cockfighting.
16.52.130	Training birds to fight—Attending exhibitions.
16.52.165	Punishment—Conviction of misdemeanor.
16.52.185	Exclusions from chapter.

16.52.030 Members as peace officers—Powers and duties. All members and agents, and all officers of any society so incorporated, as shall by the trustees of such society be duly authorized in writing, approved by any judge of the superior court of the county, and sworn in the same manner as are constables and peace officers, shall have power lawfully to interfere to prevent the perpetration of any act of cruelty upon any animal and may use such force as may be necessary to prevent the same, and to that end may summon to their aid any bystander; they may make arrests for the violation of any of the provisions of RCW 16.52.010 through 16.52.050, 16.52.070 through 16.52.090 and 16.52.100 through 16.52.180 in the same manner as herein provided for other

officers; and may carry the same weapons that such officers are authorized to carry. Authorizations under this section shall be for a period not exceeding three years or termination of duties, whichever occurs first. The trustees of the society shall review the authorizations every three years and may revoke authorizations at any time by filing a certified revocation with the superior court from which the authorization was issued: *Provided*, That all such members and agents shall, when making arrests under this section, exhibit and expose a suitable badge to be adopted by such society. All persons resisting such specially authorized, approved and sworn officers, agents or members shall be guilty of a misdemeanor. [1982 c 114 § 2; 1901 c 146 § 2; RRS § 3185.]

16.52.065 Wanton cruelty to fowls. Whosoever shall wantonly or cruelly pluck, maim, torture, deprive of necessary food or drink, or wantonly kill any fowl or insectivorous bird, shall be deemed guilty of a misdemeanor. [1982 c 114 § 3; 1893 c 27 § 8; RRS § 3203. Formerly RCW 16.52.170.]

16.52.070 Certain acts as cruelty—Penalty. Except as provided in RCW 9A.48.080, every person who cruelly overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills, or causes, procures, authorizes, requests or encourages so to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten or mutilated or cruelly killed, any animal; and whoever having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary suffering or pain upon the same, or unnecessarily fails to provide the same with the proper food, drink, air, light, space, shelter or protection from the weather, or who wilfully and unreasonably drives the same when unfit for labor or with yoke or harness that chafes or galls it, or check rein or any part of its harness too tight for its comfort, or at night when it has been six consecutive hours without a full meal, or who cruelly abandons any animal, shall be guilty of a misdemeanor. For the purposes of this section, necessary sustenance or proper food means the provision at suitable intervals, not to exceed twenty-four hours, of wholesome foodstuff suitable for the species and age of the animal and sufficient to provide a reasonable level of nutrition for the animal. [1982 c 114 § 4; 1979 c 145 § 4; 1901 c 146 § 4; RRS § 3187. Prior: 1893 c 27 § 2, part; Code 1881 § 930, part; 1873 p 211 § 133; 1869 p 227 § 127; 1854 p 97 § 121.]

16.52.080 Transporting or confining in unsafe manner—Penalty. Any person who wilfully transports or confines or causes to be transported or confined any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor. And whenever any such person shall be taken into custody or be subject to arrest pursuant to a valid warrant therefor by any officer or authorized person, such officer or person

may take charge of the animal or animals; and any necessary expense thereof shall be a lien thereon to be paid before the animal or animals may be recovered; and if the expense is not paid, it may be recovered from the owner of the animal or the person guilty. [1982 c 114 § 5; 1974 ex.s. c 12 § 1; 1901 c 146 § 5; RRS § 3188. Prior: 1893 c 27 § 2, part; Code 1881 § 930, part.]

Cruelty to stock in transit: RCW 81.56.120.

16.52.100 Confinement without food and water. Any person who shall impound or confine or cause to be impounded or confined any domestic animal, shall supply the same during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof shall be guilty of a misdemeanor. In case any domestic animal shall be impounded or confined as aforesaid and shall continue to be without necessary food and water for more than twenty-four consecutive hours, it shall be lawful for any person, from time to time, as it shall be deemed necessary to enter into and open any pound or place of confinement in which any domestic animal shall be confined, and supply it with necessary food and water so long as it shall be confined. Such person shall not be liable to action for such entry, and the reasonable cost of such food and water may be collected by him of the owner of such animal, and the said animal shall be subject to attachment therefor and shall not be exempt from levy and sale upon execution issued upon a judgment therefor. If an investigating officer finds it extremely difficult to supply such animals with food and water, the officer may remove the animals to protective custody for that purpose. [1982 c 114 § 6; 1901 c 146 § 12; RRS § 3195.]

16.52.113 Causing animals to fight—Injuring animals—Presence at event. Any person who for amusement or gain causes any bull, bear, or other animal except a dog to fight with an animal of like kind, or causes any such animal, including dogs, to fight with a different kind of animal; or who for amusement or gain injures any bull, bear, dog, or other animal, or causes any bull, bear, or other animal except a dog to worry or injure another such animal; and any person who permits any of these acts to be done on any premises under his charge or control or who aids, abets, or is present at such fighting, chasing, or worrying of such animal is guilty of a misdemeanor. [1982 c 114 § 8.]

16.52.117 Dog fighting—Owners, trainers, spectators—Exceptions. (1) Any person who does any of the following is guilty of a gross misdemeanor punishable by imprisonment not to exceed one year, or by a fine not to exceed five thousand dollars, or by both fine and imprisonment:

(a) Owns, possesses, keeps, or trains any dog with the intent that the dog shall be engaged in an exhibition of fighting with another dog;

(b) For amusement or gain causes any dog to fight with another dog, or causes any dogs to injure each other; or

(c) Permits any act in violation of (a) or (b) of this subsection to be done on any premises under his charge or control, or aids or abets any such act.

(2) Any person who is knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subsection (1)(b) of this section, with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.

(3) Nothing in this section may prohibit the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law. [1982 c 114 § 9.]

16.52.120 Cockfighting. Every person who wantonly or for the amusement of himself or others, or for gain, shall cause any cock to fight, chase, worry or injure any other animal, or to be fought, chased, worried or injured by any person or animal, and every person who shall permit the same to be done on any premises under his charge or control; and every person who shall aid, abet, or be present at such fighting, chasing, worrying or injuring of such animal as a spectator, shall be guilty of a misdemeanor. [1982 c 114 § 11; 1901 c 146 § 7; RRS § 3190.]

16.52.130 Training birds to fight—Attending exhibitions. Every person who owns, possesses, keeps, or trains any bird with the intent that such bird shall be engaged in an exhibition of fighting, or is present at any place, building or tenement, where training is being had or preparations are being made for the fighting of birds, with the intent to be present at such exhibition, or is present at such exhibition, shall be guilty of a misdemeanor. [1982 c 114 § 12; 1901 c 146 § 8; RRS § 3191.]

16.52.165 Punishment—Conviction of misdemeanor. Every person convicted of any misdemeanor under RCW 16.52.080 or 16.52.090 shall be punished by a fine of not exceeding one hundred and fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or both such fine and imprisonment, and shall pay the costs of the prosecution. [1982 c 114 § 7; 1901 c 146 § 16; RRS § 3199. Formerly RCW 16.52.160, part.]

16.52.185 Exclusions from chapter. Nothing in this chapter applies to accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry, or products thereof or to the use of animals in the normal and usual course of rodeo events. [1982 c 114 § 10.]

Chapter 16.67

WASHINGTON STATE BEEF COMMISSION ACT

Sections

16.67.090	Powers and duties.
16.67.120	Levy of assessment—Exemption.

16.67.090 Powers and duties. The powers and duties of the commission shall include the following:

(1) To administer and enforce the provisions of this chapter, and do all things reasonably necessary to effectuate the purposes of this chapter;

(2) To elect a chairman and such other officers as it deems advisable;

(3) To employ and discharge at its discretion a manager, secretary, and such other personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the commission determines are necessary and proper to carry out the purposes of this chapter, and to prescribe their duties and powers and fix their compensation;

(4) To adopt, rescind, and amend rules, regulations and orders for the exercise of its powers hereunder subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act) as now or hereafter amended;

(5) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the commission. All records, books and minutes of the commission shall be kept at such headquarters;

(6) To require a bond of all commission members and employees of the commission in a position of trust in the amount the commission shall deem necessary. The premium for such bond or bonds shall be paid by the commission from assessments collected. Such bond shall not be necessary if any such commission member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(7) To establish a beef commission revolving fund, such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the commission, except an amount of petty cash for each day's needs not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable; none of the provisions of RCW 43.01.050 as now or hereafter amended shall apply to money collected under this chapter;

(8) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this chapter during each fiscal year;

(9) To incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter;

(10) To borrow money, not in excess of its estimate of its revenue from the current year's contributions;

(11) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, expenditures, moneys and other financial transactions made and done pursuant to this chapter. Such records, books and accounts shall be audited at least every five years subject to procedures

and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after completion thereof to the director, the state auditor and the commission. On such years and in such event the state auditor is unable to audit the records, books and accounts within six months following the close of the audit period it shall be mandatory that the commission employ a private auditor to make such audit;

(12) To sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter;

(13) To cooperate with any other local, state, or national commission, organization or agency, whether voluntary or established by state or federal law, including recognized livestock groups, engaged in work or activities similar to the work and activities of the commission created by this chapter and make contracts and agreements with such organizations or agencies for carrying on joint programs beneficial to the beef industry;

(14) To accept grants, donations, contributions or gifts from any governmental agency or private source for expenditures for any purpose consistent with the provisions of this chapter;

(15) To operate jointly with beef commissions or similar agencies established by state laws in adjoining states. [1982 c 81 § 3; 1969 c 133 § 8.]

16.67.120 Levy of assessment—Exemption. There is hereby levied an assessment of fifty cents per head on all Washington cattle sold in this state or elsewhere to be paid by the seller at the time of sale: *Provided*, That if the assessment is greater than one percent of the sales price, the animal is exempt from the assessment: *Provided further*, That if such sale is accompanied by a brand inspection by the department such assessment shall be collected at the same time, place and in the same manner as brand inspection fees. Such fees shall be collected by the regulatory division of the department and transmitted to the commission: *Provided further*, That, if such sale is made without a brand inspection by the department the assessment shall be paid by the seller and transmitted directly to the commission not later than thirty days following the sale. [1982 c 47 § 1; 1975 1st ex.s. c 93 § 1; 1969 c 133 § 11.]

Title 17

WEEDS, RODENTS AND PESTS

Chapters

17.24 Insect pests and plant diseases.

17.28 Mosquito control districts.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 17.24

INSECT PESTS AND PLANT DISEASES

Sections

PEST AND DISEASE CONTROL—1982 ACT

- 17.24.200 Determination of imminent danger of infestation of plant pests or plant diseases—Emergency measures—Conditions—Procedure.
- 17.24.210 Indemnity contracts for damages resulting from prevention, control, or eradication measures—Authorized—Conditions.

PEST AND DISEASE CONTROL—1982 ACT

17.24.200 Determination of imminent danger of infestation of plant pests or plant diseases—Emergency measures—Conditions—Procedure. (1) If the director of agriculture of the state of Washington determines that there exists an imminent danger of an infestation of plant pests or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, he shall request the governor to order emergency measures to control the pests or plant diseases pursuant to RCW 43.06.010(14). The director's findings shall contain an evaluation of the effect of the emergency measures upon public health.

(2) The director shall appoint a committee to advise him in the development of the criteria for determining when an emergency situation exists and the procedure for implementing emergency measures. The committee shall report back to the director within one hundred twenty days of April 1, 1982. The committee shall review emergency measures performed under the authority of RCW 43.06.010(14) and this section and make subsequent recommendations to the director. The committee shall include representatives of the agricultural industries, state and local government, public health interests, technical service providers, and environmental organizations. The public shall have access to the recommendations of the committee.

(3) Upon the order of the governor of the use of emergency measures, the director is authorized to apply such emergency measures to prevent, control, or eradicate plant pests or plant diseases that are now established or may later become established and that may seriously endanger the agricultural or horticultural industries, or which seriously threaten life, health, or economic well-being of the state of Washington. Such measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides.

(4) Upon the order of the governor of the use of emergency measures, the director is authorized to enter into agreements with individuals and/or companies to accomplish the prevention, control, or eradication of plant pests or plant diseases, notwithstanding the provisions of chapter 15.58 RCW or chapter 17.21 RCW or any other statute.

(5) The director shall continually evaluate the emergency measures taken and report to the governor at intervals of not less than ten days. The director shall

immediately advise the governor if he finds that the emergency no longer exists or if certain emergency measures should be discontinued. [1982 c 153 § 2.]

Severability—1982 c 153: "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." [1982 c 153 § 5.]

Effective date—1982 c 153: "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 April 1, 1982." [1982 c 153 § 7.]

17.24.210 Indemnity contracts for damages resulting from prevention, control, or eradication measures—

Authorized—Conditions. The director of agriculture may, on the behalf of the state of Washington, enter into indemnity contracts wherein the state of Washington agrees to repay any person, firm, corporation, or other entity acting under the direction or control of the proper authority to provide plant pest or plant disease prevention, control, or eradication measures as provided in this chapter or any rule adopted pursuant to the provisions of this chapter, for losses and damages incurred as a result of such prevention, control, or eradication measures if all of the following conditions occur:

(1) At the time of the incident the worker is performing services as an emergency measures worker and is acting within the course of his duties as an emergency measures worker;

(2) At the time of the injury, loss, or damage, the organization providing emergency measures by which the worker is employed is an approved organization for providing emergency measures;

(3) The injury, loss, or damage is proximately caused by his service either with or without negligence as an emergency measures worker;

(4) The injury, loss, or damage is not caused by the intoxication of the worker; and

(5) The injury, loss, or damage is not due to wilful misconduct or gross negligence on the part of a worker.

Where an act or omission by an emergency services provider in the course of providing emergency services injures a person or property, the provider and the state may be jointly and severally liable for the injury, if state liability is proved under existing or hereafter enacted law.

Each person, firm, corporation, or other entity authorized to provide the prevention, control, or eradication measures implementing a program approved under RCW 17.24.200 shall be identified on a list approved by the director. For the purposes of this section, each person on the list shall be known, for the duration of the person's services under the program, as "an emergency measures worker." [1982 c 153 § 3.]

Severability—Effective date—1982 c 153: See notes following RCW 17.24.200.

Chapter 17.28

MOSQUITO CONTROL DISTRICTS

Sections

17.28.100 Election on proposition to levy tax.

17.28.100 Election on proposition to levy tax. At the same election there shall be submitted to the voters residing within the district, for their approval or rejection, a proposition authorizing the mosquito control district, if formed, to levy at the earliest time permitted by law on all taxable property located within the mosquito control district a general tax, for one year, of up to twenty-five cents per thousand dollars of assessed value in excess of any constitutional or statutory limitation for authorized purposes of the mosquito control district. The proposition shall be expressed on the ballots in substantially the following form:

"ONE YEAR ----- CENTS PER THOUSAND DOLLARS OF ASSESSED VALUE LEVY

"Shall the mosquito control district, if formed, levy a general tax of ----- cents per thousand dollars of assessed value for one year upon all the taxable property within said district in excess of the constitutional and/or statutory tax limits for authorized purposes of the district?

YES
NO

Such proposition to be effective must be approved by a majority of at least three-fifths of the persons voting on the proposition to levy such tax in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended. [1982 c 217 § 1; 1973 1st ex.s. c 195 § 2; 1957 c 153 § 10.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Title 18

BUSINESSES AND PROFESSIONS

Chapters

- 18.04 Accountancy.
- 18.08 Architects.
- 18.11 Auctioneers.
- 18.18 Cosmetology.
- 18.20 Boarding homes.
- 18.22 Podiatry.
- 18.34 Dispensing opticians.
- 18.39 Embalmers—Funeral directors.
- 18.43 Engineers and land surveyors.
- 18.46 Maternity homes.
- 18.51 Nursing homes.
- 18.52A Nursing assistants—Nursing homes.
- 18.64 Pharmacists.
- 18.71 Physicians.

- 18.72 Medical disciplinary board.**
18.73 Emergency medical care and transportation services.
18.92 Veterinary medicine, surgery and dentistry.
18.100 Professional service corporations.

Regulatory fairness act: Chapter 19.85 RCW.

Chapter 18.04 ACCOUNTANCY

Reviser's note—Sunset Act application: The board of accountancy is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.247. RCW 18.04.020, 18.04.030, 18.04.040, 18.04.050, 18.04.060, 18.04.070, 18.04.080, 18.04.090, and 18.04.100 are scheduled for future repeal under RCW 43.131.248.

Chapter 18.08 ARCHITECTS

Sections

18.08.130 Board of registration—Rules.

18.08.130 Board of registration—Rules. The board shall adopt rules for its own organization and procedure, and such other rules as it may deem necessary to the proper performance of its duties. All rules adopted by the board shall be filed with the code reviser and shall be available for public inspection. [1982 c 35 § 194; 1959 c 323 § 4.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 18.11 AUCTIONEERS

Sections

18.11.010 Repealed.
 18.11.020 Repealed.
 18.11.030 Repealed.
 18.11.050 Definitions.
 18.11.060 Administration of chapter under chapter 43.24 RCW.
 18.11.070 License required—Exceptions.
 18.11.080 Applicants for certificate of registration—Licensing—Fees.
 18.11.090 Qualifications for license—Applications—Issuance fee—Renewal.
 18.11.100 Nonresident license—Reciprocity—Application—Fees.
 18.11.110 Trainee auctioneer's license.
 18.11.120 Surety bond or trust account required.
 18.11.130 Written contract required—Exception—Penalty.
 18.11.140 Records.
 18.11.150 Display of certificates of registration or renewal cards—Failure grounds for license suspension or revocation.
 18.11.160 Denial of license—Grounds.
 18.11.170 Unauthorized practice—Penalties.
 18.11.180 Compensation of nonlicensed person by licensee grounds for license suspension or revocation.
 18.11.190 Actions for compensation for services.
 18.11.200 Director—Authority to adopt rules—Power to deny, suspend, or revoke licenses.
 18.11.900 Short title.

18.11.910 Termination of chapter.
 18.11.920 Severability—1982 c 205.

Reviser's note—Termination date: The regulation of auctioneers, chapter 18.11 RCW, is scheduled for termination under RCW 18.11.910.

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

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

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

18.11.050 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply through this chapter.

(1) "Auctioneer" means a person who sells goods or real estate at public auction for another on commission or for recompense, or one who conducts an auction for another on commission or for recompense.

(2) "Auction" or "sale at auction" means the verbal exchanges between an auctioneer and the members of his or her audience, constituting a series of invitations for offers for the sale of goods or real property made by the auctioneer, offers by members of the audience, and the acceptance of the highest or most favorable offer by the auctioneer.

(3) "Auction mart" means any fixed or established place designed, intended, or used for the conduct of auction sales.

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

(5) "Director" means the director of licensing.

(6) "Person" means an individual, or a partner or member of a firm, partnership, or association, or an officer, director, or employee of a corporation.

(7) "Goods" mean wares, chattels, merchandise, or personal property owned or consigned, which may be lawfully kept or offered for sale, including domestic animals and farm products.

(8) "Qualified public depository" means a depository 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, or a federal credit union or a federal savings and loan association organized, operated, and governed by any act of Congress. [1982 c 205 § 5.]

18.11.060 Administration of chapter under chapter 43.24 RCW. This chapter shall be administered under chapter 43.24 RCW. [1982 c 205 § 2.]

18.11.070 License required—Exceptions. (1) On and after June 10, 1982, it is unlawful for any person to act as an auctioneer, or to engage in the business of an auctioneer in this state without a license. A person conducting an auction or sale at auction of equipment, livestock, household goods, personal property, or real estate individually owned by that person is not required to obtain a license.

(2) This section does not apply to an auction or a sale at auction:

(a) Conducted by or under the direction of a public authority;

(b) Held under judicial order in the settlement of a decedent's estate;

(c) Which is required by law to be at auction;

(d) Conducted by or on behalf of a political organization or a charitable corporation or association if the person conducting the sale receives no compensation;

(e) Conducted by or under the auspices of national, state, or county livestock breeder or producer associations;

(f) Of livestock which is conducted by a person licensed by the federal government; or

(g) Conducted by or under the auspices of the Future Farmers of America, the 4-H Club, or a county or district fair. [1982 c 205 § 6.]

18.11.080 Applicants for certificate of registration—Licensing—Fees. The department shall license each applicant for a certificate of registration under this chapter who applies in writing on a form prescribed by the director with such information as the director requires. The director shall set license and renewal fees in accordance with RCW 43.24.085. [1982 c 205 § 3.]

18.11.090 Qualifications for license—Applications—Issuance fee—Renewal. (1) Except as otherwise provided in this chapter, no person, partnership, association, or corporation may be licensed as an auctioneer unless the person, and all members of the partnership, association, or corporation are actively engaged in the auctioneering profession, are citizens, residents of the state, and eighteen years of age or older.

(2) Applications for licenses under this subsection shall be made to the department within ninety days of June 10, 1982, and be accompanied by an issuance fee as determined by the director.

(3) Persons licensed under this chapter shall apply for a license renewal annually on or before the birth date of the licensee. If the licensee does not renew his or her license before it expires, the licensee is subject to a penalty fee. [1982 c 205 § 7.]

18.11.100 Nonresident license—Reciprocity—Application—Fees. (1) A nonresident of this state may be licensed as an auctioneer upon complying with the rules of the department and this chapter.

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

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

(4) Nonresidents must pay the issuance fee, annual renewal fees, and such other fees as prescribed by the director under RCW 43.24.085, and file the bond or proof of the establishment of a trust account as required by this chapter. [1982 c 205 § 8.]

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

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

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

(3) The applicant has furnished security as required by RCW 18.11.120 or proof that the bond or trust account of the employer auctioneer under RCW 18.11.120 requires the auctioneer to pay all legal claims which may accrue in favor of any person arising out of auction business transacted under the auctioneer's direction.

No trainee licensed under this section may sell his or her own property at an auction sale which the trainee conducts, or sell any property by auction unless the employer auctioneer is present at the time of the auction sale. [1982 c 205 § 9.]

18.11.120 Surety bond or trust account required. (1) An auctioneer's license shall not be issued to any person, partnership, association, or corporation until the applicant has filed with the department an approved bond or has established a trust account in lieu of the bond, as required under this section.

(2) Each applicant for an auctioneer's license shall obtain a surety bond issued by a surety company authorized to do business in Washington or establish and maintain a trust account with a qualified public depository located in the state of Washington. Each trust account shall be managed by a trustee approved by the director. The bond or the trust account shall be at least five thousand dollars. The director may, by rule or order, establish procedures for the initiation, operation, forfeiture, or termination of any bond or trust account required under this section, including rules to ensure that the bond or trust account remains in effect for one year after expiration, revocation, or suspension of the auctioneer's license.

All bonds shall be subject to the condition that the licensee comply with this chapter and the law of the state. Each bond, or proof of the establishment of the required trust account, shall be filed with and retained by the department.

(3) The bond or trust account shall be in the name of the state of Washington. It shall be for the benefit of the state and any person injured by the auctioneer's violation of this chapter or by the auctioneer's breach of any obligation arising from auction business in this state. The state may bring an action against the bond or trust account to recover penalties. The state or an injured person may bring an action against the bond or trust account for damages to the injured person. The liability of the surety or trustee shall be only for actual damages and shall not exceed the amount of the bond or trust account. [1982 c 205 § 10.]

18.11.130 Written contract required—Exception—Penalty. No person may act as auctioneer in the sale at public auction of any goods or real estate until he or she has entered into a written contract or agreement with the owner or consignor in duplicate which contains the terms and conditions upon which the licensee receives or accepts the property for sale at auction. Auction marts shall not be subject to this section.

A person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not exceeding five hundred dollars. [1982 c 205 § 11.]

18.11.140 Records. Every person engaged in the business of selling goods or real estate at auction shall keep permanent written records available for inspection which indicate clearly the name and address of the owner, employer, or consignor of the goods or real estate, the terms of acceptance and sale, and a copy of the signed written contract of the auctioneer. [1982 c 205 § 12.]

18.11.150 Display of certificates of registration or renewal cards—Failure grounds for license suspension or revocation. All persons, partnerships, associations, and corporations licensed as auctioneers under this chapter shall be required to have their certificates of registration prominently displayed in their offices and the current renewal card or a facsimile available on demand at all sales at auction conducted or supervised by the licensee.

The violation of this section by any licensee shall be, in the discretion of the department sufficient cause for license suspension or revocation. [1982 c 205 § 13.]

18.11.160 Denial of license—Grounds. (1) If an auctioneer's license is revoked by the department after June 10, 1982, no new license may be issued to the person unless he or she complies with this chapter.

(2) After the revocation of any license, no new license may be issued to the same licensee within a period of at least one year from the date of the revocation nor at any time thereafter except in the sole discretion of the department.

(3) No license may be issued by the department to any person who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy, fraud, theft, or other similar offense, or to any partnership of which the person is a member, or to any association or corporation of which the person is an officer or employee or in which as a stockholder the person has or exercises a controlling interest either directly or indirectly. [1982 c 205 § 14.]

18.11.170 Unauthorized practice—Penalties. Any person, partnership, association, or corporation who after June 10, 1982, engages in the profession, or acts in the capacity of an auctioneer within this state without a license or after the suspension or revocation of his or her license is guilty of a misdemeanor. Upon conviction, the person shall be fined for the first offense not less than one hundred dollars, nor more than five hundred dollars. For a second offense, the person shall be fined not less than five hundred dollars nor more than one thousand dollars, or be imprisoned for a period of not more than one year, or both. [1982 c 205 § 15.]

18.11.180 Compensation of nonlicensed person by licensee grounds for license suspension or revocation. It shall be unlawful for a licensed auctioneer to pay compensation in money or otherwise to anyone not licensed under this chapter to render any service or to do any act forbidden under this chapter to be rendered or performed except by licensees.

The violation of this section by any licensee shall be, in the discretion of the department, sufficient cause for license suspension or revocation. [1982 c 205 § 16.]

18.11.190 Actions for compensation for services. No action or suit may be instituted in any court of this state by any person, partnership, association, or corporation not licensed as an auctioneer to recover compensation for an act done or service rendered which is prohibited under this chapter. [1982 c 205 § 17.]

18.11.200 Director—Authority to adopt rules—Power to deny, suspend, or revoke licenses. The director may prescribe rules for the purpose of carrying out this chapter, including rules governing the conduct of investigations and inspections. Upon finding that any provision of this chapter has been violated, the director may deny issuance or renewal of any license authorized under this chapter or suspend or revoke any such license. [1982 c 205 § 18.]

18.11.900 Short title. This chapter shall be known and may be cited as the "auctioneer's licensing act." [1982 c 205 § 1.]

18.11.910 Termination of chapter. Chapter 18.11 RCW shall expire on June 30, 1986, unless extended by law. The legislative budget committee shall evaluate the effectiveness of chapter 18.11 RCW. The final report of the evaluation shall be available to the legislature at least six months prior to the scheduled termination date. The report shall include, but is not limited to, objective

findings of fact, conclusions, and recommendations as to continuation, modification, or termination of chapter 18.11 RCW. [1982 c 205 § 19.]

18.11.920 Severability—1982 c 205. 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. [1982 c 205 § 20.]

Chapter 18.18 COSMETOLOGY

Sections

18.18.010	Definitions.
18.18.020	Director—Duties.
18.18.030	Licensing—Required.
18.18.040	Licensing—Exemptions.
18.18.050	Manager operator license.
18.18.065	Shop or school location license—Application— Issuance.
18.18.070	School license—Qualifications.
18.18.078	Schools—Requirements.
18.18.080	Repealed.
18.18.085	Fees for applications for enrollment, licensing, and examinations.
18.18.100	Examining committee—Qualifications.
18.18.102	Examining committee—Appointment—Terms.
18.18.104	Examining committee—Meetings—Principal of- fice—Duties, compensation of secretary—Com- pensation of members—Source of support.
18.18.108	Examining committee—Appointment of inspec- tors—Inspections.
18.18.110	Examinations—Subjects—Conduct.
18.18.130	Licenses—Issuance—Duration.
18.18.140	Licenses—Renewal—Fees.
18.18.160	Licenses—Change of address—Discontinued shop or school—Notice to director—Penalty.
18.18.170	Licenses—Restrictions—Responsibility of li- censee—No school and shop in same location.
18.18.190	Schools—Courses of instruction.
18.18.200	Schools—Enrollment—Registration with director.
18.18.210	Schools—Charges for student work.
18.18.220	Revocation of licenses—Grounds.
18.18.260	Unlawful practices.
18.18.270	Violations—Penalties.
18.18.300	Manicuring—License required—Exception— Application—Examinations.

Reviser's note—Sunset Act application: The regulation of cosme-
tology is subject to review, termination, and possible extension under
chapter 43.131 RCW, the Sunset Act. See RCW 43.131.219. RCW
18.18.010 through 18.18.270 and 18.18.290 through 18.18.910 are
scheduled for future repeal under RCW 43.131.220.

18.18.010 Definitions. Unless the context clearly in-
dicates otherwise, the words used in this chapter have
the meaning given in this section:

(1) "Practice of cosmetology" or "cosmetology"
means the arranging, dressing, curling, waving, perma-
nent waving, chemical relaxing or straightening, bleach-
ing, or coloring of the hair, skin care, dressing of wigs
and hair pieces on or off the head, or doing similar work
thereon by use of the hands or any method of mechanical
application or appliances, the practice of haircutting,
the massaging, cleansing, stimulating, manipulating, ex-
ercising, or beautifying of the scalp, face, arms, or upper
part of the body, or doing similar work thereon with the
hands or with any mechanical or electrical apparatus or

appliances, or by the use of cosmetic preparations, anti-
septic tonics, lotions, creams, or similar preparations or
compounds, and manicuring the nails, application and
removal of artificial nails, pedicuring, removing super-
fluous hair by means of lotions, creams, or mechanical
or electrical apparatus or appliances on another person;

(2) "Cosmetologist" means any person who engages in
the practice of cosmetology;

(3) "Practice of manicuring" includes the manicuring
of nails of the hands, pedicuring as applied to feet, ap-
plication and removal of artificial nails, also the admin-
istration of facials, massage, facial make-up, or skin
care by the use of hands and appliances;

(4) "Manicurist manager operator" means any person
who engages in the practice of manicuring;

(5) A "student" is any person who has graduated
from an accredited high school, or has an equivalent edu-
cation as determined by the director whose determina-
tion shall be conclusive, who attends a duly licensed
cosmetology school, who receives any phase of cosme-
tology instruction with or without tuition, fee, or cost, and
who does not receive any wage or commission;

(6) A "manager operator" is any person of the age of
eighteen years or over, who has been licensed by the
state of Washington to practice cosmetology;

(7) A "shop" is any building or structure, or any part
thereof, other than a school, wherein the practice of cos-
metology or manicuring is conducted;

(8) A "manicurist shop" is any building or structure,
or any part thereof, other than a school, where only the
practice of manicuring is conducted;

(9) A "school" is an institution of learning devoted
exclusively to the instruction and training of students,
special students, cadet instructors, instructor operators,
licensed cosmetologists, postgraduate cosmetologists,
manicurists, or manicuring students in all or specific
phases of cosmetology, or in the practice of teaching all
or specific phases of cosmetology;

(10) An "instructor operator" is a person who gives
instruction in the practice of cosmetology in a school and
who has the same qualifications and privileges of a
manager operator and who has completed a course of
instruction approved by the examining committee of five
hundred hours as a cadet instructor in a duly licensed
cosmetology school and who has passed the state in-
structor examination: *Provided*, That the provisions of
this subdivision do not apply to any person licensed as an
instructor operator on June 10, 1982. Any applicant
properly licensed as a manager operator who applies for
an instructor operator license, who can show equivalent
or substantially equivalent credentials to the five hun-
dred hour cadet instructor curriculum, is exempt from
that licensing requisite, but may be required to pass the
instructor operators examination as determined by the
director. Any applicant who holds a degree in education
from an accredited post-secondary institution shall be
issued an instructor operator license without examina-
tion if the applicant meets the requirements of a man-
ager operator. An instructor operator may not perform
in a cosmetology school, cosmetology services for mem-
bers of the public except for instructional purposes;

(11) "Director" means the director of licensing;

(12) "Committee" means the cosmetology examining committee;

(13) "Board" means the hearing board;

(14) "Special student" is a person who has academically completed the eleventh grade of high school, who in cooperation with any senior high, vocational technical institute, or prep school, attends a cosmetology school and participates in its student course of instruction and has the same rights and duties as a student as defined in this chapter. The school shall have relatively corresponding rights and responsibilities, and every such special student shall receive credit for all hours of instruction received in the school of cosmetology program upon graduation from high school. No hours may be credited to any such special student unless he or she graduates from high school;

(15) "Manicuring student" is any person who has graduated from an accredited high school, or has an equivalent education as determined by the director whose determination shall be conclusive, or who is enrolled as a special student, who attends a duly licensed cosmetology school for a five hundred hour course of instruction, who receives training in manicuring, facials, skin care, and pedicuring with or without tuition, fee, or cost, and who does not receive any wage or commission;

(16) "Postgraduate cosmetologist" is any cosmetologist licensed by any state or country who is enrolled in a duly licensed cosmetology school, who is registered with the department of licensing, who receives any phase of cosmetology instruction with or without tuition, fee, or cost and who does not receive any wage or commission;

(17) A "cadet instructor" is a person registered with the department of licensing who receives training in teaching techniques and lesson planning in a duly licensed cosmetology school for a period of five hundred hours, with or without compensation or fee, who has the same qualifications as a manager operator. A cadet instructor may not perform in a cosmetology school, cosmetology services for members of the public except for instructional purposes. [1982 c 225 § 1; 1979 ex.s. c 242 § 1; 1979 c 158 § 14; 1974 ex.s. c 25 § 1. Prior: 1973 1st ex.s. c 154 § 21; 1973 1st ex.s. c 148 § 16; 1965 ex.s. c 3 § 1; 1959 c 324 § 1; 1955 c 313 § 1; 1951 c 180 § 1; 1937 c 215 § 2; 1927 c 281 § 2; RRS § 8278-2.]

Sunset Act application: See note following chapter digest.

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

Effective date—1965 ex.s. c 3: "The effective date of this 1965 amendatory act is July 1, 1965." [1965 ex.s. c 3 § 18.]

18.18.020 Director—Duties. The director shall, in addition to other duties imposed by law, adopt rules for carrying out the provisions of this chapter. The director shall provide for examinations of applicants for licensing and grant licenses to those qualified. The director shall govern the recognition of, and the credits to be given to, the study of cosmetology or manicuring under a cosmetologist or any school of cosmetology licensed under the laws of another state, nation, territory, or the District of Columbia. The director shall keep all student training

records submitted by the school on file for at least five years, which file shall be open to the inspection of the applicant or his agent. [1982 c 225 § 2; 1979 c 158 § 15; 1973 1st ex.s. c 148 § 17; 1937 c 215 § 8; RRS § 8278-8.]

Sunset Act application: See note following chapter digest.

18.18.030 Licensing—Required. It is unlawful for any person, firm, or corporation to engage in the practice of cosmetology, the practice of manicuring, or the practice of teaching cosmetology or manicuring for compensation, or hold himself or itself out as qualified to engage in the practice of, or solicit the practice of, cosmetology, the practice of manicuring, or the practice of teaching cosmetology or manicuring, or to own, manage, conduct, or give instruction in any place other than a cosmetology school unless licensed to do so as provided in this chapter.

Every cosmetology establishment for the teaching of any branch thereof shall be classified as a school of cosmetology within the meaning of this chapter, and shall be required to comply with its provisions. [1982 c 225 § 4; 1973 1st ex.s. c 148 § 18; 1965 ex.s. c 3 § 2; 1937 c 215 § 1; RRS § 8278-1. Prior: 1927 c 281 § 1.]

Sunset Act application: See note following chapter digest.

18.18.040 Licensing—Exemptions. Nothing in this chapter prohibits any person authorized under the laws of this state from performing any service for which he may be licensed; nor prohibits any person from performing services as an electrologist if such person has been otherwise certified, registered, or trained as an electrologist; nor prohibits manicuring in barber shops when performed by a manicurist licensed under the provisions of this chapter.

This chapter does not apply to persons employed in the care or treatment of patients in hospitals or employed in the care of residents of nursing homes and similar residential care facilities. [1982 c 225 § 5; 1973 1st ex.s. c 148 § 19; 1937 c 215 § 18; RRS § 8278-18. Prior: 1927 c 281 § 16.]

Sunset Act application: See note following chapter digest.

18.18.050 Manager operator license. A manager operator license shall be issued to a student who: (1) Is of the age of eighteen years or over; (2) is of good moral character and temperate habits; (3) has graduated from an accredited high school or the equivalent thereof as determined by the director whose determination shall be conclusive: *Provided*, That this subdivision shall not apply to those holding a valid operator's license or attending a recognized cosmetology school prior to June 10, 1959, but such persons shall be subject to the law in existence prior to June 10, 1959; (4) has completed a course of training of not less than two thousand hours in a recognized cosmetology school, such training not to exceed eight hours in any one day, and has received a certificate of completion from such school; and (5) has satisfactorily passed the cosmetology examination of this state. [1982 c 225 § 6; 1973 1st ex.s. c 148 § 21; 1959 c

324 § 3; 1957 c 52 § 3; 1951 c 180 § 2. Prior: 1937 c 215 § 3(a); RRS § 8278-3(a).]

Sunset Act application: See note following chapter digest.

18.18.065 Shop or school location license—Application—Issuance. It is unlawful for any person, firm, or corporation to operate a cosmetology shop or school without a shop or school location license for each such shop or school. Application therefor shall be made on forms furnished by the director and shall contain such information as the director may reasonably require. Upon receipt of such application and the fee required by this chapter, the director shall issue a location license if such shop or school meets the other requirements of this chapter. [1982 c 225 § 7; 1973 1st ex.s. c 148 § 22; 1965 ex.s. c 3 § 3; 1959 c 324 § 2.]

Sunset Act application: See note following chapter digest.

18.18.070 School license—Qualifications. No person may be licensed to conduct a school unless it appears to the director that: (1) The school will maintain the course of instruction herein provided; (2) instruction in the school at all times is in charge of and under the supervision of an instructor operator; (3) the school will at all times maintain one licensed instructor for each twenty students in attendance or fraction thereof; (4) at no time does a school have fewer than two licensed instructors on duty; (5) the school provides students and other interested persons with a catalog or brochure containing information describing (a) enrollment qualifications, (b) programs offered, (c) program objectives, (d) length of program, (e) schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, and (f) cancellation and refund policies; all such information under subsections (a) through (f) above shall be provided prospective students prior to enrollment as well as such other material facts concerning the school and the program as are reasonably likely to affect the decision of the student to enroll in the school, together with any other disclosures specified by the director and defined in department rules; (6) adequate records are maintained by the school to document student performance and progress; (7) neither the school nor its agents engage in methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair; (8) the school is financially sound and capable of meeting its legal financial obligations and fulfilling its commitments to students; (9) for any nonaccredited school, the nonaccredited school has established, consistent with guidelines adopted by the director, a fair and equitable cancellation and refund policy that includes provisions for a cooling-off period, and will not make unilateral changes in scheduled times for course instruction unless provision is made for an equitable refund of tuition and fees; and (10) at the time of licensing the school has filed with the director a surety bond in a form acceptable to the director.

For purposes of this section, "nonaccredited school" shall mean a school which is not accredited by an accrediting association recognized by the commission for vocational education pursuant to RCW 28B.05.040(5). [1982 c 225 § 8; 1981 c 283 § 6; 1965 ex.s. c 3 § 4; 1957 c 52 § 5; 1951 c 180 § 4. Prior: 1937 c 215 § 3(e); RRS § 8278-3(e).]

Sunset Act application: See note following chapter digest.

Severability—1981 c 283: See note following RCW 28B.05.030.

18.18.078 Schools—Requirements. Every school shall cause the word "school" to appear conspicuously on its literature and advertising matter, and to be painted in letters at least four inches high on all doors which are open to the public and lead to the school. All schools shall meet the following minimum requirements:

- (1) Separate area for class work and clinical services;
- (2) Lavatory facilities;
- (3) Student storage facilities;
- (4) Each school shall provide:

Shampoo bowls;
Hair dryers;
A sterilizer;
A heating cap;
Cold wave equipment;
Individual styling stations;
Manicuring tables;

Those schools also offering the five hundred hour manicuring course shall provide, in addition to the equipment specified in the above paragraph, the following equipment:

Facial chairs;
Styling stations;
Stools;
Manicuring tables;
Facial area with hot and cold running water;
A sanitizer;
Manicuring heaters;
Facial trays.

[1982 c 225 § 9.]

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

18.18.085 Fees for applications for enrollment, licensing, and examinations. Each application for enrollment or licensing under this chapter shall be accompanied by a fee determined by the director as provided in RCW 43.24.085.

An applicant who fails to pass an examination may take the next examination with payment of an additional fee determined by the director as provided in RCW 43.24.085. [1982 c 225 § 3.]

18.18.100 Examining committee—Qualifications. All examinations for license shall be conducted and given by the examining committee under the supervision and direction of the director, in the manner provided by law. No person may, after June 10, 1982, be appointed as a member of an examining committee for the purpose of conducting examinations and performing other duties

imposed by this chapter unless he or she is an instructor operator of the age of at least twenty-five years, has been a resident of the state for at least three years immediately prior to his or her appointment, and is or has been engaged in actual practice as a cosmetologist or instructor operator for at least three of the past five years at the time of appointment, is not connected directly or indirectly with any school of cosmetology, and is not connected directly or indirectly with the business of the manufacturing, renting, or selling of hairdressing or cosmetology or manicuring appliances and supplies at wholesale during his or her appointment. [1982 c 225 § 10; 1979 c 158 § 16; 1973 1st ex.s. c 148 § 24; 1965 ex.s. c 3 § 7; 1937 c 215 § 7; RRS § 8278-7. Prior: 1927 c 281 § 11.]

Sunset Act application: See note following chapter digest.

18.18.102 Examining committee—Appointment—Terms. The examining committee described in RCW 18.18.100, as now or hereafter amended, shall consist of five members appointed by the governor. The governor shall designate one of the committee members as chairman of the committee. The terms of the members shall be for five years and until their successors are appointed and qualified. The examining committee shall be under the direct supervision of the director. The governor may remove a member of the committee for cause. The governor shall fill any vacancy on the committee within ninety days after it occurs by an appointment for the remainder of the unexpired term. No member may serve more than two full terms.

The director may, when considered necessary, appoint no more than two alternate members meeting the qualifications set forth in RCW 18.18.100, as now or hereafter amended, to perform the examination functions and responsibilities of regularly appointed members if because of unavoidable circumstances the regularly appointed member is unable to attend and participate in a scheduled examination. [1982 c 225 § 11; 1953 c 168 § 1.]

Sunset Act application: See note following chapter digest.

Severability—1953 c 168: "If any section, subsection, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions." [1953 c 168 § 6.] This applies to RCW 18.18.102, 18.18.104, 18.18.106, 18.18.108, and 18.18.280.

18.18.104 Examining committee—Meetings—Principal office—Duties, compensation of secretary—Compensation of members—Source of support. (1) The secretary of the examining committee shall keep a record of all the proceedings of the committee. The committee shall meet in order to hold examinations and to conduct any other proper business. The committee shall set a schedule for such meetings a year in advance. The principal office of the committee shall be and is hereby established in Olympia, Washington. A majority of the committee in a duly assembled meeting may exercise all the powers devolving upon the committee. For any urgent purpose a special meeting may be called. Notice from the secretary signed by three members of

the committee may convene the committee for a special meeting. The secretary shall notify each licensed cosmetology school by mail with a specific agenda. Only business specified in the notice shall be transacted. The secretary shall arrange for and conduct all examinations called for under the provisions of this chapter. The secretary shall deliver all records and findings of the examining committee as a result of examinations and hearings to the director.

(2) The secretary shall have a full-time position with a salary to conform with standards set by the department of licensing for similar positions. The secretary shall be reimbursed for travel expenses incurred in the actual performance of his duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Each appointed member of the committee shall receive as compensation forty-five dollars for each day in which the member is officially engaged in business or duties of the committee and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended: *Provided, however,* That all salaries, compensation, and travel expenses shall come from the license and application fees collected pursuant to this chapter. [1982 c 225 § 12; 1975-'76 2nd ex.s. c 34 § 30; 1965 ex.s. c 3 § 8; 1953 c 168 § 2.]

Sunset Act application: See note following chapter digest.

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

Severability—1953 c 168: See note following RCW 18.18.102.

18.18.108 Examining committee—Appointment of inspectors—Inspections. The examining committee shall arrange with the director for the employment of two or more inspectors. The inspectors shall have the same qualifications as examining committee members. The secretary of the committee and inspectors shall have the right to inspect any salon or school. Any member or agent of the committee or inspector may enter any shop during business hours for the purpose of inspection. Every shop shall be inspected at least once a year. Every school shall be inspected at least three times a year by the secretary, an inspector, or member of the committee. [1982 c 225 § 13; 1953 c 168 § 4.]

Sunset Act application: See note following chapter digest.

Severability—1953 c 168: See note following RCW 18.18.102.

18.18.110 Examinations—Subjects—Conduct. All examinations for licenses shall be conducted at least six times a year, an examination to be given once every two months.

The examination shall consist of written questions and answers and practical tests and shall cover branches of cosmetology as determined by the examining committee.

Practical tests shall consist of actual demonstrations in cosmetology under the direction and supervision of the committee.

Applicants shall also be required to pass an examination in anatomy, physiology, hygiene, sanitation, sterilization, and the use of antiseptics in hairdressing and cosmetology.

Passing grades shall be based upon the standard of one hundred percent.

An applicant who receives a passing grade of not less than seventy-five percent in each branch, and in addition thereto passes the required examination in anatomy, physiology, hygiene, sanitation, sterilization, and the use of antiseptics, shall be entitled to a license as an operator.

An instructor's examination shall consist of written questions and answers appropriate to the practice of the teaching of cosmetology and demonstrations in the development of lesson plans and a demonstration in the art of teaching at least two subjects as determined by the examining committee.

All examination papers completed by the applicant shall be kept on file by the director for a period of at least one year, and such papers shall be available for inspection by the applicant or his agent. [1982 c 225 § 14; 1973 1st ex.s. c 148 § 25; 1965 ex.s. c 3 § 9; 1955 c 313 § 4. Prior: 1937 c 215 § 12; RRS § 8278-12.]

Sunset Act application: See note following chapter digest.

18.18.130 Licenses—Issuance—Duration. The director shall issue to each applicant who has complied with the provisions of this chapter, the license for which application was made. All licenses shall remain in effect until the scheduled renewal date following their issuance, unless sooner revoked or suspended. [1982 c 225 § 15; 1955 c 313 § 5. Prior: (i) 1937 c 215 § 10(b); RRS § 8278-10(b). (ii) 1937 c 215 § 13; RRS § 8278-13.]

Sunset Act application: See note following chapter digest.

18.18.140 Licenses—Renewal—Fees. Licenses issued to shops or schools may be renewed from year to year upon the payment on or before the first day of each July following their issuance, of a renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

On or after the expiration date of a cosmetology operator license previously issued by the director, the license may be converted and renewed to a cosmetology manager operator license upon payment of the required license renewal fee and any applicable lapsed license or late renewal penalty fees as determined by the director. A manicurist license previously issued by the director may be converted to a manicurist manager operator license upon payment of the required license renewal fee and any applicable lapsed license or late renewal penalty fees as determined by the director. A person whose license has lapsed for more than three years shall be reexamined as in the case of any applicant for an original cosmetology manager operator license or manicurist manager operator license.

Licenses issued to manager operators, manicurist manager operators, or instructor operators may be renewed from year to year upon payment, on or before the individual's birth anniversary date of each year following license issuance, of a renewal fee determined by the director as provided in RCW 43.24.085 as now existing or hereafter amended.

Any licensee whose license has lapsed may have the same renewed upon payment of all fees which the applicant would have been required to pay to keep such license in effect, and an additional fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for each lapsed year: *Provided*, That any manicurist manager operator, manager operator, or instructor operator whose license has lapsed for more than three years shall be reexamined, as in the case of any applicant for an original license. [1982 c 225 § 16; 1979 ex.s. c 242 § 3; 1977 ex.s. c 310 § 2; 1975 1st ex.s. c 30 § 15; 1973 1st ex.s. c 148 § 27; 1971 ex.s. c 266 § 3; 1965 ex.s. c 3 § 11; 1959 c 324 § 5; 1955 c 313 § 6; 1951 c 180 § 7. Prior: (i) 1937 c 215 § 10(b); RRS § 8278-10(b). (ii) 1937 c 215 § 11; RRS § 8278-11.]

Sunset Act application: See note following chapter digest.

18.18.160 Licenses—Change of address—Discontinued shop or school—Notice to director—Penalty. Every manager operator, instructor operator, and manicurist manager operator licensed under this chapter, within thirty days after changing his address as recorded upon the records of the director, shall notify the director in writing of this change of address.

Whenever an owner discontinues his shop or school business, the license shall thereupon be of no further force and effect and shall be invalid. The person to whom the shop or school license is issued shall notify the director of such action and return to the director the license of such establishment within thirty days of such discontinuance. Any person seeking to operate or reopen such shop or school after such discontinuance under the invalid license, or who fails to make the notification herein required, is guilty of a misdemeanor, and each day on which such violation occurs constitutes a separate offense. [1982 c 225 § 17; 1959 c 324 § 6; 1957 c 52 § 7. Prior: 1937 c 215 § 17(g); RRS § 8278-17(g).]

Sunset Act application: See note following chapter digest.

18.18.170 Licenses—Restrictions—Responsibility of licensee—No school and shop in same location. Every shop or school license authorizing a person, firm, or corporation to conduct such business shall be issued only in the name of the shop or school, to which may be added the trade name, under which the business is conducted. Such license is not transferable.

The principal owner(s) of a cosmetology shop or school shall be primarily responsible for the business ethics and the proper conduct of the shop or school.

No school and shop may be maintained in the same location; nor may there be any connecting entrance. [1982 c 225 § 18; 1959 c 324 § 7; 1957 c 52 § 8. Prior: (i) 1937 c 215 § 3(i); RRS § 8278-3(i). (ii) 1937 c 215 § 5; RRS § 8278-5.]

Sunset Act application: See note following chapter digest.

18.18.190 Schools—Courses of instruction. The courses of instruction in theory and practical application in every school shall consist of training in at least the following:

Anatomy and physiology pertaining to the practice of cosmetology, chemical hair relaxing, facials, hair bleaching, coloring, styling, and treatments, hygiene, makeup, manicuring, pedicuring, permanent and temporary waving, professional ethics and practices, sanitation and sterilization, scalp treatments, shampooing, shop or salon management, state laws and rules regulating the practice of cosmetology, and the theory of massage as used in the practice of cosmetology. [1982 c 225 § 19; 1973 1st ex.s. c 148 § 26; 1965 ex.s. c 3 § 12; 1957 c 52 § 9; 1951 c 180 § 8. Prior: 1937 c 215 § 3(f); RRS § 8278-3(f).]

Sunset Act application: See note following chapter digest.

18.18.200 Schools—Enrollment—Registration with director. Every school licensed hereunder shall, within twenty days after the enrollment of any student therein, register such student with the director on such forms as the director shall prescribe. [1982 c 225 § 20; 1937 c 215 § 4; RRS § 8278-4.]

Sunset Act application: See note following chapter digest.

18.18.210 Schools—Charges for student work. No charge may be made for student work until the student has completed three hundred hours of instruction and practice in cosmetology or one hundred hours of instruction and practice in manicuring: *Provided*, That no student may perform such services for charge unless he displays such identification issued by the schools which certifies the completion of the required hours of instruction and practice. [1982 c 225 § 21; 1965 ex.s. c 3 § 13; 1957 c 52 § 10; 1951 c 180 § 9. Prior: (i) 1937 c 215 § 3(g), (h); RRS § 8278-3(g), (h). (ii) 1937 c 215 § 17(b); RRS § 8278-17(b).]

Sunset Act application: See note following chapter digest.

18.18.220 Revocation of licenses—Grounds. Any license issued pursuant to this chapter may be revoked for any of the following causes arising after the issuance thereof:

- (1) Conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence;
- (2) Habitual drunkenness or the use of habit-forming drugs;
- (3) Performing cosmetology services upon the public in an incompetent manner;
- (4) Advertising in any manner by means of knowingly false or deceptive statements;
- (5) Performing cosmetology services upon the public in an unsanitary or filthy manner;
- (6) Performing either the practice of cosmetology or manicuring upon the person of another while knowingly suffering from an infectious or contagious disease;
- (7) Wilful violation of any of the provisions of this chapter;
- (8) Failure to pay a manager operator, instructor operator, or manicurist manager operator the minimum wage required by law. [1982 c 225 § 22; 1973 1st ex.s. c

148 § 28; 1959 c 324 § 8; 1937 c 215 § 15; RRS § 8278-15. Prior: 1927 c 281 § 14.]

Sunset Act application: See note following chapter digest.

False advertising: RCW 9.04.010.

Persons infected with contagious disease: RCW 70.20.040.

18.18.260 Unlawful practices. No person may engage in the practice of cosmetology in any place other than a licensed cosmetology shop or school, except in case of the practice of manicuring in a manicurist shop or in case of his or her own family or in case of a customer whose physical condition prevents his or her presence at a shop or school.

No person may use for residential purposes any room that is used wholly or in part as a cosmetology school or shop or manicurist shop, except that these restrictions shall not apply to toilet facilities which may be used jointly for residential and business purposes.

Every cosmetology shop or school or manicurist shop shall maintain an outside entrance separate from the entrances to rooms used for sleeping or residential purposes.

Every cosmetology shop or school or manicurist shop shall provide and maintain for the use of the customers adequate toilet facilities located within the shop or school or adjacent thereto.

No cosmetology shop may be operated unless it is under the direct supervision of a licensed manager operator or instructor operator.

No manicurist shop shall be operated unless it is under the direct supervision of a licensed manicurist manager operator.

No person other than an individual licensed under this chapter in demonstrating or instructing in the use of any cosmetics or supplies of any kind, may engage in any of the acts enumerated in RCW 18.18.010 as now or hereafter amended.

No student may engage in the practice of cosmetology or manicuring except in a licensed cosmetology school under the direct supervision of a licensed instructor operator. [1982 c 225 § 23; 1979 ex.s. c 242 § 4; 1977 ex.s. c 310 § 1; 1973 1st ex.s. c 148 § 29; 1965 ex.s. c 3 § 17; 1959 c 324 § 9; 1957 c 52 § 11. Prior: 1937 c 215 § 17 (a), (d), (e), (f); RRS § 8278-17 (a), (d), (e), (f).]

Sunset Act application: See note following chapter digest.

18.18.270 Violations—Penalties. Every person who: (1) Violates any of the provisions of this chapter; or (2) permits any person in his employ or under his supervision or control to practice cosmetology or manicuring without a license where one is required by this chapter; or (3) attempts to obtain a license by fraudulent means, is subject to payment of a civil penalty of not more than one hundred dollars as established by rule of the director. The director may take all actions necessary to collect such penalties. Each and every day on which such violation occurs constitutes a separate offense. [1982 c 225 § 24; 1973 1st ex.s. c 148 § 30; 1957 c 52 § 12. Prior: 1937 c 215 § 17(i); RRS § 8278-17(i).]

Sunset Act application: See note following chapter digest.

18.18.300 Manicuring—License required—Exception—Application—Examinations. A separate license for the practice of manicuring is required under this chapter, except for persons holding a valid license in the practice of cosmetology. Applications for licenses shall be made on such form and require such information and certificates to verify completion of five hundred hours in manicuring training, as required by the director and shall be accompanied by the proper application fee. Examinations shall be held at regular intervals throughout the year as the director deems necessary. The provisions of RCW 18.18.110, as now or hereafter amended, are not applicable hereto. [1982 c 225 § 25; 1979 c 158 § 17; 1973 1st ex.s. c 148 § 20.]

Sunset Act application: See note following chapter digest.

**Chapter 18.20
BOARDING HOMES**

Sections
18.20.050 Licenses—Issuance—Renewal—Provisional licenses—Fees—Display.

18.20.050 Licenses—Issuance—Renewal—Provisional licenses—Fees—Display. Upon receipt of an application for license, if the applicant and the boarding home facilities meet the requirements established under this chapter, the department or the department and the authorized health department jointly, shall issue a license. If there is a failure to comply with the provisions of this chapter or the standards, rules, and regulations promulgated pursuant thereto, the department, or the department and authorized health department, may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the boarding home for a period to be determined by the department, or the department and authorized health department, but not to exceed twelve months, which provisional license shall not be subject to renewal. At the time of the application for or renewal of a license or provisional license the licensee shall pay a license fee as established by the department under RCW 43.20A.055. When the license or provisional license is issued jointly by the department and authorized health department, the license fee shall be paid to the authorized health department. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department, but no license issued pursuant to this chapter shall exceed twelve months in duration: *Provided*, That when the annual license renewal date of a previously licensed boarding home is set by the department on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. All applications for renewal of license shall be made not later than thirty

days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises. [1982 c 201 § 4; 1971 ex.s. c 247 § 1; 1957 c 253 § 5.]

**Chapter 18.22
PODIATRY**

Sections
18.22.005 Legislative finding—Purpose.
18.22.010 Definitions.
18.22.013 Podiatry board—Membership.
18.22.014 Board—Meetings—Chairperson—Members' compensation and travel expenses.
18.22.015 Board—Duties—Rules.
18.22.016 Board—Members and staff immunity from suit.
18.22.020 Licensing required.
18.22.030 Licensing—Exemptions.
18.22.040 Applicants—Eligibility.
18.22.050 Applicants—Educational qualifications.
18.22.060 Application and reexamination fees.
18.22.070 Repealed.
18.22.081 License—Reciprocity with other states—Examinations, when.
18.22.083 License—Examination to determine professional qualifications.
18.22.120 License—Annual renewal, fee—Invalidation upon failure to pay—Reinstatement procedure.
18.22.140 Repealed.
18.22.141 Suspension of podiatrist's license for mental incompetency or illness—Procedure—Implied consent to examination.
18.22.150 Repealed.
18.22.151 Revocation, suspension, denial of podiatrist's license—Unprofessional conduct as grounds—Scope.
18.22.160 Repealed.
18.22.170 Repealed.
18.22.200 Repealed.
18.22.210 Unlawful practice—Evidence of—Exception.
18.22.215 Injunctions.
18.22.230 Exemptions.
18.22.911 Severability—1982 c 21.

18.22.005 Legislative finding—Purpose. The legislature finds that the conduct of podiatrists licensed to practice in this state plays a vital role in preserving the public health and well-being and that the existing agency responsible for disciplinary action against podiatrists does not offer a simple, expedient, and effective means of handling disciplinary action when necessary for the protection of the public. The purpose of *this act is to establish an effective public agency to regulate the practice of podiatry for the protection and promotion of the public health, safety, and welfare and to act as a disciplinary body for the licensed podiatrists of this state. [1982 c 21 § 1.]

*Reviser's note: For RCW section translation of "this act", see note following RCW 18.22.911.

18.22.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) The practice of podiatry means the diagnosis and the medical, surgical, mechanical, manipulative, and

electrical treatments of ailments of the human foot. A podiatrist is a podiatric physician and surgeon of the foot licensed to treat ailments of the foot, except:

- (a) Amputation of the foot;
 - (b) The administration of a spinal anesthetic or any anesthetic, which renders the patient unconscious, or the administration and prescription of drugs including narcotics, other than required to perform the services authorized for the treatment of the feet; and
 - (c) Treatment of systemic conditions.
- (2) "Board" means the Washington state podiatry board.
- (3) "Department" means the department of licensing.
- (4) "Director" means the director of licensing.
- (5) "Approved school of podiatry" means a school approved by the board, which may consider official recognition of the Council of Education of the American Podiatry Association in determining the approval of schools of podiatry. [1982 c 21 § 2; 1973 c 77 § 1; 1955 c 149 § 1; 1941 c 31 § 1; 1921 c 120 § 1; 1917 c 38 § 1; Rem. Supp. 1941 § 10074.]

Persons licensed under prior laws:

1917 c 38 § 3: "Licenses for the practice of chiropody shall be issued by the state board of chiropody without examination to all persons who shall within sixty days from the taking effect of this act have and maintain a fixed place of business with the necessary facilities for the sterilization of instruments, and who shall at the time of making application file with said board an affidavit to the effect that he or she has such fixed place of business, and is a resident of the state, and been engaged in the practice of chiropody in this state for at least two years prior to making application; said application to be accompanied by the certificate of two licensed physicians resident at the place of business of the applicant, to the effect that they are acquainted with the applicant and believe him or her to be a person of good moral character. Said applicant shall at the time of making application pay to the said board the sum of ten dollars."

1935 c 48 § 2: "Licenses for the practice of chiropody shall be issued by the director of licenses without examination, to all persons who shall within ten days from the taking effect of this act have and maintain a fixed place of business with the necessary facilities for the sterilization of instruments, and who shall at the time of making application file with the said director an affidavit to the effect that he or she had such fixed place of business, and is a resident of the state and had been engaged in the practice of chiropody in this state for at least three years prior to 1917. The application for said license shall be accompanied by an affidavit of reputable persons to the effect that they are acquainted with the applicant and believe him or her to be a person of good moral character. In addition thereto, the applicant shall give satisfactory reasons to the director of licenses why he failed to register since chapter 38 of the Session Laws of 1917 went into effect. Said applicant shall at the time of making application pay to the said director of licenses the sum of twenty-five dollars: *Provided, however,* That nothing herein contained shall be construed to in anywise modify, repeal or alter the provisions of section 3 of chapter 38 of the Laws of 1917, except as herein contained."

18.22.013 Podiatry board—Membership. There is created the Washington state podiatry board consisting of five members to be appointed by the governor. All members shall be residents of the state. One member shall be a consumer whose occupation does not include the administration of health activities or the providing of health services and who has no material financial interest in providing health care services. Four members shall be podiatrists who at the time of appointment have been licensed under the laws of this state for at least five consecutive years immediately preceding appointment

and shall at all times during their terms remain licensed podiatrists.

Board members shall serve five-year terms, except that the terms of the initial appointees shall be adjusted so that only one member's term expires each year. The initial appointees whose terms expire after two years and four years shall each be members of the existing podiatry examining committee appointed under RCW 43.24.060.

No person may serve more than two consecutive terms on the board. Each member shall take the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of appointment and until a successor is appointed and sworn.

Each member is subject to removal at the pleasure of the governor. If a vacancy on the board occurs from any cause, the governor shall appoint a successor for the unexpired term. [1982 c 21 § 8.]

18.22.014 Board—Meetings—Chairperson—Members' compensation and travel expenses. The board shall meet at the places and times it determines and as often as necessary to discharge its duties. The board shall elect a chairperson from among its members. Each member shall receive fifty dollars a day for each day actually spent in the performance of official duties and in traveling to and from the place of performance in addition to travel expenses provided by RCW 43.03.050 and 43.03.060 as now or hereafter amended. [1982 c 21 § 9.]

18.22.015 Board—Duties—Rules. The board shall:

- (1) Administer all laws placed under its jurisdiction;
- (2) Prepare, grade, and administer or determine the nature, grading, and administration of examinations for applicants for podiatrist licenses;
- (3) Examine and investigate all applicants for podiatrist licenses and certify to the director all applicants it judges to be properly qualified;
- (4) Conduct hearings for the refusal, suspension, or revocation of licenses or appoint a departmental hearing officer to conduct these hearings;
- (5) Investigate all reports, complaints, and charges of malpractice, unsafe conditions or practices, or unprofessional conduct against any licensed podiatrist and direct corrective action if necessary;
- (6) Issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;
- (7) Take or cause depositions to be taken as needed in any investigation, hearing, or disciplinary proceeding; and
- (8) Adopt rules establishing ethical standards for the podiatric profession including rules relating to false or misleading advertising and excessive charges for professional services. The board may adopt any other rules which it considers necessary or proper to carry out the purposes of this chapter. [1982 c 21 § 10.]

Revocation, suspension, denial of podiatrist's license—Unprofessional conduct as grounds—Scope: RCW 18.22.151.

18.22.016 Board—Members and staff immunity from suit. Board members and staff are immune from suit in any civil or criminal action based upon their official acts performed in good faith as members or staff of the board brought by or on behalf of a person who is being evaluated. [1982 c 21 § 11.]

18.22.020 Licensing required. It shall be unlawful for any person to practice podiatry in this state unless the person first has obtained a license therefor. [1982 c 21 § 3; 1973 c 77 § 2; 1957 c 52 § 13. Prior: 1917 c 38 § 2, part; RRS § 10075, part.]

18.22.030 Licensing—Exemptions. Nothing in this chapter contained shall be construed as preventing any licensed physician, surgeon, osteopath, chiropractor, or other person licensed to treat the sick and afflicted, from treating the hands or feet by the methods and means permitted by the person's license, nor to prevent the domestic administration of family remedies, nor shall this chapter be construed to discriminate against any particular school of medicine or surgery or osteopathy and surgery, or any chiropractic school, or any licensed system or mode of treating the sick or afflicted, or to apply to or to regulate treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination. [1982 c 21 § 4; 1973 c 77 § 3; 1917 c 38 § 18; RRS § 10091.]

Exemptions: RCW 18.22.230.

18.22.040 Applicants—Eligibility. Before any person shall be permitted to take an examination for the issuance of a podiatry license, the applicant shall furnish the director of licensing and the board with satisfactory proof that:

- (1) The applicant is eighteen years of age or over;
- (2) The applicant is of good moral character;
- (3) The applicant has successfully completed a four-year course in a high school or its equivalent and a two-year college course leading toward the baccalaureate degree, not including correspondence courses, before beginning a course in podiatry in an approved school of podiatry; and
- (4) The applicant has received a diploma or certificate of graduation from a legally incorporated, regularly established and approved school of podiatry. [1982 c 21 § 5; 1979 c 158 § 18; 1973 c 77 § 4; 1971 ex.s. c 292 § 19; 1955 c 149 § 2; 1935 c 48 § 3; 1921 c 120 § 3; 1917 c 38 § 6; RRS § 10079.]

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

18.22.050 Applicants—Educational qualifications. Applicants for a certificate to practice podiatry shall file satisfactory evidence of having completed, in an approved, legally chartered school of podiatry, a course of instruction which includes those subjects that appear on the examinations administered by the national board of

podiatry examiners. [1982 c 21 § 6; 1973 c 77 § 5; 1955 c 149 § 4. Prior: 1935 c 48 § 1, part; 1921 c 120 § 2, part; 1917 c 38 § 4, part; RRS § 10077, part.]

Applicants—Eligibility: RCW 18.22.040.

18.22.060 Application and reexamination fees. Every applicant for a license to practice podiatry shall pay to the state treasurer a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

An applicant who fails to pass an examination satisfactorily is entitled to reexamination at a meeting called for the examination of applicants, upon the payment of a fee for each reexamination determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1982 c 21 § 7; 1975 1st ex.s. c 30 § 16; 1973 c 77 § 6; 1965 c 97 § 1; 1957 c 52 § 14. Prior: (i) 1921 c 120 § 5; 1917 c 38 § 9; RRS § 10082. (ii) 1921 c 120 § 4; 1917 c 38 § 7; RRS § 10080.]

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

18.22.081 License—Reciprocity with other states—Examinations, when. Any applicant who has been examined and licensed under the laws of another state which grants the holders of certificates from the proper authorities of this state the full privileges of practice within its borders or an applicant who has satisfactorily passed examinations given by the national board of podiatry examiners may, in the discretion of the board and after examination by the board in the clinical application of dermatology, bio-mechanics, surgery, medicine, podiatric medicine, radiology, pharmacology, laboratory procedures, and any other subjects the board may require by regulation, be granted a license on the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer if the applicant has not previously failed to pass an examination held in this state. If the applicant was licensed in another state, the applicant must file with the director a copy of the license certified by the proper authorities of the issuing state to be a full and true copy thereof, and must show that the standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state. [1982 c 21 § 12; 1975 1st ex.s. c 30 § 17; 1973 c 77 § 8; 1965 c 97 § 3.]

18.22.083 License—Examination to determine professional qualifications. Except for applicants granted licenses under RCW 18.22.081, applicants must successfully complete an examination administered by the board to determine their professional qualifications. The board shall prepare and give, or approve the preparation and giving of, an examination which covers those general subjects and topics, a knowledge of which is commonly required of candidates for the degree of doctor of podiatry conferred by approved colleges or schools of podiatry in the United States. The board shall have the sole responsibility for determining the proficiency of applicants

under this chapter and, in so doing, may waive any prerequisite to licensure not set forth in this chapter.

The board may by rule establish the passing grade for the examination, and in so doing may grant credit based on experience which shall not exceed five percent of the total possible grade. The department shall keep records of the examination grades which shall be permanently kept with each applicant's file. [1982 c 21 § 13.]

18.22.120 License—Annual renewal, fee—Invalidation upon failure to pay—Reinstatement procedure. Every person practicing podiatry must renew his or her license each year and pay a renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

Failure to register and pay the annual renewal fee invalidates the license, but it shall be reinstated upon written application to the director and payment to the state of a penalty of ten dollars, together with all delinquent annual renewal fees: *Provided*, That a person who fails to renew his or her license for a period of three years is not entitled to renewal under this section but must file an original application as provided in this chapter, and pay the required fee. The board may permit an applicant whose license has lapsed in this manner to be licensed without examination if it determines that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of podiatry. [1982 c 21 § 14; 1975 1st ex.s. c 30 § 18; 1973 c 77 § 10; 1971 ex.s. c 266 § 4; 1965 c 97 § 2; 1955 c 149 § 6. Prior: (i) 1921 c 120 § 5, part; 1917 c 38 § 9, part; RRS § 10082, part. (ii) 1921 c 120 § 9; RRS § 10096.]

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

18.22.141 Suspension of podiatrist's license for mental incompetency or illness—Procedure—Implied consent to examination. (1) If a podiatrist is determined by a court of competent jurisdiction to be mentally incompetent or mentally ill, the board shall suspend the podiatrist's license upon the entry of judgment, regardless of the pendency of an appeal.

(2) If it appears to the board that there is reasonable cause to believe that a podiatrist who has not been judicially determined to be mentally incompetent or mentally ill is unable to practice podiatry with reasonable skill and safety to patients due to illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or due to any mental or physical condition, a complaint in the name of the board shall be served upon the podiatrist for a hearing on the sole issue of the capacity of the podiatrist to practice. In enforcing this subsection the board may, upon probable cause, direct a podiatrist in writing to submit to a mental or physical examination by two or more physicians designated by the board, at least one of whom shall be approved by the podiatrist if he or she requests. A podiatrist's failure to submit to an examination when directed constitutes grounds for immediate suspension of

the podiatrist's license and a default and final order of suspension may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the podiatrist's control. A podiatrist suspended under this subsection shall at reasonable intervals be given an opportunity to demonstrate that he or she can competently resume the practice of podiatry with reasonable skill and safety to patients.

(3) For the purpose of subsection (2) of this section, a podiatrist licensed under this chapter accepts the privilege of practicing podiatry in this state and by practicing or by filing annual registration to practice consents to a mental or physical examination when directed in writing by the board and waives objection to the admissibility of the examining physicians' testimony or examination reports on the ground of privileged communication.

(4) Neither the record of proceedings nor the orders entered by the board in any proceeding under subsection (2) of this section may be used against a podiatrist in any other proceeding. [1982 c 21 § 15.]

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

18.22.151 Revocation, suspension, denial of podiatrist's license—Unprofessional conduct as grounds—Scope. Any of the following acts is unprofessional conduct and grounds for revocation, suspension or denial of license:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of his or her practice as a podiatrist or not, and whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. A certified copy of the judgment and sentence of conviction is conclusive evidence of the guilt of the podiatrist of the crime described in the judgment and sentence in any disciplinary proceeding before the board;

(2) Misrepresentation or concealment of a material fact in obtaining a license or reinstatement of a license to practice podiatry;

(3) All advertising of podiatric business which is intended to or has a tendency to deceive the public or impose upon credulous or ignorant persons and is harmful or injurious to public morals or safety;

(4) The impersonation of another licensed podiatrist;

(5) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for therapeutic purposes;

(6) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine or the treating, operating, or prescribing for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the board;

(7) Unprofessional conduct under chapter 19.68 RCW;

(8) Aiding or abetting an unlicensed person to practice podiatry;

(9) Suspension or revocation of the podiatrist's license to practice podiatry by competent authority in any state, federal, or foreign jurisdiction;

(10) Incompetency or negligence in the practice of podiatry resulting in serious harm to the patient;

(11) Violation of any board rule fixing a standard of professional conduct;

(12) Wilful disregard of a board subpoena or notice;

(13) Gross or continued wilful overcharging for professional services;

(14) Failure to abide by the terms of corrective actions directed by the board;

(15) Any public claim, representation, or advertisement that the licensee is a "doctor" or its synonyms independent of the title "podiatrist" or its synonyms; or

(16) Violation of any of the provisions of this chapter. [1982 c 21 § 16.]

State board—Duties—Rules: RCW 18.22.015.

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

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

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

18.22.210 Unlawful practice—Evidence of—Exception. It shall be deemed prima facie evidence of the practice of podiatry or of holding oneself out as a practitioner of podiatry within the meaning of this chapter for any person to treat in any manner the human foot by medical, surgical or mechanical means or appliances, or to use the title "podiatrist" or any other words or letters which designate or tend to designate to the public that the person so treating or holding himself or herself out to treat, is a podiatrist: *Provided, however,* That nothing herein contained shall prohibit a duly licensed physician or surgeon from treating the human foot by medical, surgical or mechanical means or appliances. [1982 c 21 § 17; 1973 c 77 § 17; 1935 c 48 § 4; 1921 c 120 § 6; 1917 c 38 § 10; RRS § 10083.]

18.22.215 Injunctions. If any person engages in the practice of podiatry without possessing a valid license so to do, or if a person violates the provisions of *RCW 18.22.140, the attorney general, any prosecuting attorney, the director, or any citizen of the same county may maintain an action in the name of the state to enjoin such person from engaging in the practice of podiatry. The injunction shall not relieve from criminal prosecution, but the remedy by injunction shall be in addition to the liability of such offender to criminal prosecution and to license suspension or revocation. [1982 c 21 § 18; 1973 c 77 § 18; 1955 c 149 § 14.]

*Reviser's note: RCW 18.22.140 was repealed by 1982 c 21 § 21; but see RCW 18.22.141.

Injunctions: Chapter 7.40 RCW.

[1982 RCW Supp—page 58]

18.22.230 Exemptions. The following practices, acts and operations are excepted from the operation of the provisions of this chapter:

(1) The practice of podiatry in the discharge of official duties by podiatrists in the United States armed forces, public health service, Veterans Bureau or Bureau of Indian Affairs;

(2) Recognized schools of podiatry or colleges of podiatry, and the practice of podiatry by students in such recognized schools or colleges, when acting under the direction and supervision of registered and licensed podiatrists acting as instructors;

(3) The practice of podiatry by licensed podiatrists of other states or countries while appearing as clinicians at meetings of the Washington state podiatry association or component parts thereof, or at meetings sanctioned by them;

(4) The use of roentgen and other rays for making radiograms or similar records of the feet or portions thereof, under the supervision of a licensed podiatrist or physician;

(5) The practice of podiatry by externs, interns, and residents in training programs approved by the American Podiatry Association;

(6) The performing of podiatric services by persons not licensed under this chapter when performed under the supervision of a licensed podiatrist if those services are authorized by board regulation or other law to be so performed. [1982 c 21 § 19; 1973 c 77 § 19; 1955 c 149 § 12.]

Licensing—Exemptions: RCW 18.22.030.

18.22.911 Severability—1982 c 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 21 § 20.]

Reviser's note: This act [1982 c 21] consists of the enactment of RCW 18.22.005, 18.22.013, 18.22.014, 18.22.015, 18.22.016, 18.22.083, 18.22.141, 18.22.151, the amendments to RCW 18.22.010, 18.22.020, 18.22.030, 18.22.040, 18.22.050, 18.22.060, 18.22.081, 18.22.120, 18.22.210, 18.22.215, and 18.22.230 and the repeal of RCW 18.22.070, 18.22.140, 18.22.150, 18.22.160, 18.22.170 and 18.22.200.

Chapter 18.34 DISPENSING OPTICIANS

Sections

18.34.130 Disposition of fees. (Effective June 30, 1983.)

18.34.130 Disposition of fees. (Effective June 30, 1983.) All fees required to be paid under the provisions of this chapter shall be paid to the state treasurer to be paid into the state general fund. [1982 c 227 § 6; 1957 c 43 § 13.]

Opticians' account balance into state general fund on June 30, 1983: "The state treasurer shall transfer the remaining fund balance within the opticians' account to the basic state general fund on June 30, 1983." [1982 c 227 § 5.]

Effective date—1982 c 227: "Sections 5 and 6 of this act shall take effect June 30, 1983. The remaining sections of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 1, 1982." [1982 c 227 § 25.] "Sections 5 and 6 of this act" consist of this footnoted section and the 1982 c 227 amendment to RCW 18.34.130, respectively. "This act" consists of the enactment of several uncodified sections; the 1982 c 227 amendments to RCW 18.34.130, 19.09.100, 19.09.190, 19.09.200, 19.09.210, 19.09.230, 19.09.275, 19.09.340, 19.31.100, 43.24.060, 43.24.085, 44.40.030, 46.85.020, 46.85.030, 46.85.040, 46.85.060, 46.85.100 and 46.85.270; and the repeal of RCW 19.09.040, 19.09.060, 19.09.070, 19.09.080, 19.09.090, 19.09.110, 19.09.140, 19.09.150, 19.09.160, 19.09.170, 19.09.180, 19.09.220, 19.09.250, 19.09.260, 19.09.265, 19.09.270, 19.09.280, 19.09.285, 19.09.290, 19.09.300, 19.09.310, 19.09.320, 19.09.350, 19.09.360, 19.09.370, 19.09.900, and 19.31.200.

Reviser's note: Substitute House Bill No. 778, (1982 c 227), was signed by the governor April 3, 1982.

Chapter 18.39

EMBALMERS—FUNERAL DIRECTORS

Sections	
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18.39.350	Violations—Penalty—Unfair practice under chapter 19.86 RCW—Application of chapter 63.14 RCW to retail installment sales.
18.39.360	Fraternal or benevolent organizations and labor unions excepted.
18.39.901	Severability—1982 c 66.

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

(1) "Funeral director" means a person engaged in the profession or business of conducting funerals and supervising or directing the burial and disposal of dead human bodies.

(2) "Embalmer" means a person engaged in the profession or business of disinfecting, preserving or preparing for disposal or transportation of dead human bodies.

(3) "Two-year college course" means the completion of sixty semester hours or ninety quarter hours of college credit, including the satisfactory completion of certain college courses, as set forth in this chapter.

(4) "Funeral establishment" means a place of business licensed in accordance with RCW 18.39.145, conducted at a specific street address or location, and devoted to the care and preparation for burial or disposal of dead human bodies and includes all areas of such business premises and all tools, instruments, and supplies used in preparation and embalming of dead human bodies for burial or disposal.

(5) "Director" means the director of licensing.

(6) "Board" means the state board of funeral directors and embalmers created pursuant to RCW 18.39.173.

(7) "Prearrangement funeral service contract" means any contract, other than a contract entered into by an insurance company, under which, for a specified consideration paid in advance in a lump sum or by installments, a funeral establishment promises, upon the death of a beneficiary named or implied in the contract, to furnish funeral merchandise or services.

(8) "Funeral merchandise or services" means those services normally performed and merchandise normally provided by funeral establishments, including the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches, or vaults.

(9) "Qualified public depositary" means a depositary 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, or a federal credit union or a federal savings and loan association organized, operated, and governed by any act of congress, in which prearrangement funeral service contract funds are deposited by any funeral establishment.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female. [1982 c 66 § 1; 1981 c 43 § 1; 1979 c 158 § 39; 1977 ex.s. c 93 § 1; 1965 ex.s. c 107 § 1; 1937 c 108 § 1; RRS § 8313.]

Effective dates—1982 c 66: See note following RCW 18.39.240.
Number and gender: RCW 1.12.050.

18.39.045 College course requirements. (1) The two-year college course required under this chapter shall consist of sixty semester or ninety quarter hours of instruction at a school, college, or university accredited by the Northwest Association of Schools and Colleges or other accrediting association approved by the board, with a minimum 2.0 grade point, or a grade of C or better, in each subject required by subsection (2) of this section.

(2) Credits shall include one course in each of the following subjects: Psychology, mathematics, chemistry, and biology or zoology. Instruction shall also include two courses in English composition and rhetoric, two courses in social science, and three courses selected from the following subjects: Behavioral sciences, public speaking, counseling, business administration and management, and first aid.

(3) This section does not apply to any person registered and in good standing as an apprentice funeral director or embalmer on or before January 1, 1982. [1982 c 66 § 20; 1981 c 43 § 4.]

Effective dates—1982 c 66: See note following RCW 18.39.240.

18.39.050 Application—Renewal—Fees. Every application for an initial license or a license renewal under this chapter shall be made in writing on a form prescribed by the director with such information as the director requires. The director shall set license fees in accordance with RCW 43.24.085 as now existing or hereafter amended. [1982 c 66 § 21; 1981 c 43 § 5; 1975 1st ex.s. c 30 § 42; 1971 ex.s. c 266 § 8; 1937 c 108 § 6; RRS § 8318-1. Formerly RCW 18.39.050, 18.39.060 and 18.39.140.]

Effective dates—1982 c 66: See note following RCW 18.39.240.

18.39.130 Licenses—Applicants from other states. The director may recognize licenses issued to funeral directors or embalmers from other states if the applicant's qualifications are comparable to the requirements of this chapter. Upon presentation of the license and payment by the holder of a fee determined under RCW 43.24.085 as now or hereafter amended, the director may issue a funeral director's or embalmer's license under this chapter. The license may be renewed annually upon payment of the renewal license fee as herein provided by license holders residing in the state of Washington. [1982 c 66 § 22; 1981 c 43 § 8; 1975 1st ex.s. c 30 § 44; 1937 c 108 § 15; RRS § 8325. Prior: 1909 c 215 § 16.]

Effective dates—1982 c 66: See note following RCW 18.39.240.

18.39.231 Certain relationships and financial dealings or advice between funeral directors and their clients prohibited—Exceptions—Rules—Penalty. A funeral director or any person under the supervision of a funeral director shall not, in conjunction with any professional services performed for compensation under this chapter, provide financial or investment advice to any person other than a family member, represent any person in a real estate transaction, or act as an agent under a power of attorney for any person. However, this section shall not be deemed to prohibit a funeral establishment from entering into prearrangement funeral service contracts in accordance with this chapter or to prohibit a funeral director from providing advice about government or insurance benefits.

A violation of this section is a gross misdemeanor and is grounds for disciplinary action, including suspension or revocation of the license, as provided in RCW 18.39.179.

The board shall adopt such rules as the board deems reasonably necessary to prevent unethical financial dealings between funeral directors and their clients. [1982 c 66 § 15.]

Effective dates—1982 c 66: See note following RCW 18.39.240.

18.39.240 Prearrangement funeral service contracts—Authorization. A funeral establishment licensed pursuant to this chapter may enter into prearrangement funeral service contracts, subject to the provisions of this chapter. [1982 c 66 § 2.]

Effective dates—1982 c 66: "This act shall take effect on September 1, 1982, with the exception of sections 20, 21, and 22 of this act, which are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1982 c 66 § 24.] Sections 20, 21, and 22 of this act are the 1982 c 66 amendments to RCW 18.39.045, 18.39.050, and 18.39.130 which took effect on March 26, 1982.

Transfer of records, files, and pending business—1982 c 66: "(1) All records, files, reports, papers, or other written material in the possession of the insurance commissioner pertaining to the regulation of prepaid funeral expenses shall be delivered to the director of licensing on the effective date of this act.

(2) All business or matters concerning prepaid funeral expenses pending before the insurance commissioner shall be transferred to the director of licensing and assumed by the director on the effective date of this act." [1982 c 66 § 17.]

Savings—1982 c 66: "The transfer of duties under sections 2 through 14 of this act shall not affect the validity of any rule, action, decision promulgated or held prior to the effective date of this act." [1982 c 66 § 18.] "Sections 2 through 14 of this act" refers to the enactment of RCW 18.39.240 through 18.39.360.

18.39.250 Prearrangement funeral service contracts—Trust funds. (1) Any funeral establishment selling by prearrangement funeral service contract any funeral merchandise or services shall establish and maintain one or more prearrangement funeral service trust funds for the benefit of the beneficiary of the prearrangement funeral service contract.

(2) Fifteen percent of the cash purchase price of each prearrangement funeral service contract, excluding sales tax, may be retained by the funeral establishment. Deposits to the prearrangement funeral service trust fund shall be made not later than the twentieth day of the month following the receipt of each payment made on the last eighty-five percent of each prearrangement funeral service contract, excluding sales tax.

(3) All prearrangement funeral service trust funds shall be deposited in a qualified public depository. The account shall be designated as the prearrangement funeral service trust fund of the particular funeral establishment for the benefit of the beneficiaries named in the prearrangement funeral service contract.

(4) All interest, dividends, increases, or accretions of whatever nature earned by a trust fund shall be kept unimpaired and shall become a part of the trust fund, and adequate records shall be maintained to allocate the share thereof to each contract.

(5) A depository designated as the depository of a prearrangement funeral service trust fund shall permit

withdrawal of all funds deposited under a prearrangement funeral service contract, plus accruals thereon, under the following circumstances and conditions:

(a) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been furnished and delivered in accordance therewith; or

(b) If the funeral establishment files a verified statement with the depository that the prearrangement funeral merchandise and services covered by the contract have been canceled in accordance with its terms.

(6) Any purchaser or beneficiary who has procured a prearrangement funeral service contract has the right to demand a refund of the entire amount paid on the contract, together with all interest, dividends, increases, or accretions to the funds.

(7) Prearrangement funeral service contracts shall automatically terminate if the funeral establishment goes out of business, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors, or for any other reason is unable to fulfill the obligations under the contract. In such event, and upon demand by the purchaser or beneficiary of the prearrangement funeral service contract, the depository of the prearrangement funeral service contract funds shall refund to the purchaser or beneficiary all funds deposited under the contract, unless otherwise ordered by a court of competent jurisdiction.

(8) Prearrangement funeral service trust funds shall not be used, directly or indirectly, for the benefit of the funeral establishment or any director, officer, agent, or employee of the funeral establishment including, but not limited to, any encumbrance, pledge, or other use of prearrangement funeral service trust funds as collateral or other security.

(9) Every prearrangement funeral service contract shall contain language which informs the purchaser of the prearrangement funeral service trust fund and the amount to be deposited in the trust fund, which shall not be less than eighty-five percent of the cash purchase price of the contract. [1982 c 66 § 3.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.260 Prearrangement funeral service contracts—Certificates of registration required. A funeral establishment shall not enter into prearrangement funeral service contracts in this state unless the funeral establishment has obtained a certificate of registration issued by the director and such certificate is then in force. [1982 c 66 § 4.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.270 Prearrangement funeral service contracts—Qualifications for certificates of registration. To qualify for and hold a certificate of registration, a funeral establishment must:

(1) Be licensed pursuant to this chapter; and

(2) Fully comply with and qualify according to the provisions of this chapter. [1982 c 66 § 5.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.280 Prearrangement funeral service contracts—Application for original certificate of registration. To apply for an original certificate of registration, a funeral establishment must:

(1) File with the director its request showing:

(a) Its name, location, and organization date;

(b) The kinds of funeral business it proposes to transact;

(c) A statement of its financial condition, management, and affairs on a form satisfactory to or furnished by the director; and

(d) Such other documents, stipulations, or information as the director may reasonably require to evidence compliance with the provisions of this chapter.

(2) Deposit with the director the fees required by this chapter to be paid for filing the accompanying documents, and for the certificate of registration, if granted. [1982 c 66 § 7.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

Fees: RCW 18.39.290.

18.39.290 Prearrangement funeral service contracts—Certificates of registration—Renewal—Fees—Disposition. All certificates of registration issued pursuant to this chapter shall continue in force until suspended, revoked, or renewed. A certificate shall be subject to renewal annually on the first day of July upon application by the funeral establishment and payment of the required fees.

The director shall collect in advance the following fees:

(1) Certificate of registration:

(a) Issuance – thirty-five dollars;

(b) Renewal – fifteen dollars;

(2) Annual statement of financial condition – ten dollars.

All fees so collected shall be remitted by the director to the state treasurer not later than the first business day following receipt of such funds and the funds shall be credited to the general fund. [1982 c 66 § 8.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.300 Prearrangement funeral service contracts—Grounds for nonrenewal, revocation, or suspension of certificate of registration. The director may refuse to renew or may revoke or suspend a funeral establishment's certificate of registration, if the funeral establishment:

(1) Fails to comply with any provisions of this chapter or any proper order or regulation of the director;

(2) Is found by the director to be in such condition that further execution of prearrangement contracts could be hazardous to purchasers or beneficiaries and the people of this state;

(3) Refuses to be examined, or refuses to submit to examination or to produce its accounts, records and files for examination by the director when required; or

(4) Is found by the director after investigation or receipt of reliable information to be managed by persons who are incompetent or untrustworthy or so lacking in managerial experience as to make the proposed or continued operation hazardous to purchasers, beneficiaries, or to the public. [1982 c 66 § 6.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.310 Prearrangement funeral service contracts—Suspension, revocation, or failure to renew certificate of registration—Notice—Effect. The director shall give a funeral establishment notice of the director's intention to suspend, revoke, or refuse to renew the establishment's certificate of registration not less than ten days before the order of suspension, revocation or refusal is to become effective.

A funeral establishment whose certificate of registration has been suspended, revoked, or refused shall not subsequently be authorized to enter into prearrangement contracts unless the grounds for such suspension, revocation, or refusal in the opinion of the director no longer exist and the funeral establishment is otherwise fully qualified. [1982 c 66 § 9.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.320 Prearrangement funeral service contracts—Annual statement of financial condition—Effect of failure to file. (1) Each authorized funeral establishment shall annually, before the first day of March, file with the director a true and accurate statement of its financial condition, transactions, and affairs for the preceding calendar year. The statement shall be on such forms and shall contain such information as required by this chapter and by the director.

(2) The director shall suspend or revoke the certificate of registration of any funeral establishment which fails to file its annual statement when due or after any extension of time which the director has, for good cause, granted. [1982 c 66 § 10.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.330 Prearrangement funeral service contract forms—Approval required—Grounds for disapproval. No prearrangement funeral contract forms shall be used without the prior approval of the director.

The director shall disapprove any such contract form, or withdraw prior approval, when such form:

- (1) Violates or does not comply with this chapter;
- (2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the merchandise or service purported to be provided in the general coverage of the contract;
- (3) Has any title, heading, or other part of its provisions which is misleading; or

(4) Is being solicited by deceptive advertising. [1982 c 66 § 11.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.340 Prearrangement funeral service contracts—Director's powers and authority—Rules, investigations, examinations, and hearings. (1) The director has the authority expressly conferred upon him by or reasonably implied from the provisions of this chapter.

(2) The director may:

(a) Beginning on July 1, 1982, make reasonable rules for effectuating any provision of this chapter in accordance with chapter 34.04 RCW;

(b) Conduct investigations to determine whether any person has violated any provision of this chapter; and

(c) Conduct examinations, investigations, and hearings, in addition to those specifically provided for, useful and proper for the efficient administration of any provision of this chapter. [1982 c 66 § 12.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.350 Violations—Penalty—Unfair practice under chapter 19.86 RCW—Application of chapter 63.14 RCW to retail installment sales. Any person who violates or fails to comply with, or aids or abets any person in the violation of, or failure to comply with any of the provisions of this chapter is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Any such violation constitutes an unfair practice under chapter 19.86 RCW and this chapter and conviction thereunder is grounds for license revocation under this chapter. Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW. [1982 c 66 § 13.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

Unlawful business practices—Penalty: RCW 18.39.220.

18.39.360 Fraternal or benevolent organizations and labor unions excepted. This chapter does not apply to any funeral right or benefit issued or granted as an incident to or reason of membership in any fraternal or benevolent association or cooperative or society, or labor union not organized for profit. [1982 c 66 § 14.]

Effective dates—Transfer of records, files, and pending business—Savings—1982 c 66: See notes following RCW 18.39.240.

18.39.901 Severability—1982 c 66. 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. [1982 c 66 § 23.]

Chapter 18.43

ENGINEERS AND LAND SURVEYORS

Sections

18.43.110 Revocations, fines, reprimands, and suspensions.

18.43.110 Revocations, fines, reprimands, and suspensions. The board shall have the exclusive power to fine and reprimand the registrant and suspend or revoke the certificate of registration of any registrant who is found guilty of:

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

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

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

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

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

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked or suspended, providing a majority of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be made for such issuance.

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

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

In addition to the imposition of civil penalties under this section, the board may refer violations of this chapter to the appropriate prosecuting attorney for charges under RCW 18.43.120. [1982 c 37 § 1; 1975 1st ex.s. c 30 § 49; 1947 c 283 § 14; Rem. Supp. 1947 § 8306-31. Prior: 1935 c 167 § 11; RRS § 8306-11.]

**Chapter 18.46
MATERNITY HOMES**

Sections	
18.46.030	Application for license—Fee.
18.46.040	License—Issuance—Renewal—Limitations—Display.

18.46.030 Application for license—Fee. An application for license shall be made to the department upon

forms provided by it and shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with rules and regulations as are lawfully prescribed hereunder. Each application for license or renewal of license shall be accompanied by a license fee as established by the department under RCW 43.20A.055: *Provided*, That no fee shall be required of charitable or nonprofit or government-operated institutions. [1982 c 201 § 5; 1951 c 168 § 4.]

18.46.040 License—Issuance—Renewal—Limitations—Display. Upon receipt of an application for a license and the license fee, the licensing agency shall issue a license if the applicant and the maternity home facilities meet the requirements established under this chapter. A license, unless suspended or revoked, shall be renewable annually. Applications for renewal shall be on forms provided by the department and shall be filed in the department not less than ten days prior to its expiration. Each application for renewal shall be accompanied by a license fee as established by the department under RCW 43.20A.055. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises. [1982 c 201 § 6; 1951 c 168 § 5. Prior: 1943 c 214 § 3; Rem. Supp. 1943 § 6130-49.]

**Chapter 18.51
NURSING HOMES**

Sections	
18.51.050	License—Issuance, renewal—Fee—Display.
18.51.091	Inspection of nursing homes—Notice of violations—Approval of alterations or new facilities.
18.51.230	General inspection prior to license renewal—Required—Advance notice prohibited.
18.51.310	Comprehensive plan of care for each resident—Evaluation—Classification of residents—Licensing standards—Regulations.
18.51.350	Conflict with federal requirements.

18.51.050 License—Issuance, renewal—Fee—Display. Upon receipt of an application for license, the department shall issue a license if the applicant and the nursing home facilities meet the requirements established under this chapter. Prior to the issuance or renewal of the license, the licensee shall pay a license fee as established by the department. No fee shall be required of government operated institutions. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department, but no license issued pursuant to this chapter shall exceed thirty-six months in duration. When a change of ownership occurs, the entity becoming the licensed operating entity of the facility shall pay a fee established by the department at the time of application for the license. The previously determined date of license expiration shall not change.

All applications and fees for renewal of the license and for change of ownership licenses shall be submitted to the department not later than thirty days prior to the date of expiration of the license or the date of the proposed change of ownership. Each license shall be issued only to the operating entity and those persons named in the license application. The license is valid only for the operation of the facility at the location specified in the license application. Licenses are not transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises. [1981 2nd ex.s. c 11 § 2; 1981 1st ex.s. c 2 § 17; 1975 1st ex.s. c 99 § 1; 1971 ex.s. c 247 § 2; 1953 c 160 § 4; 1951 c 117 § 6.]

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 74.09.610.

18.51.091 Inspection of nursing homes—Notice of violations—Approval of alterations or new facilities.

The department shall make or cause to be made at least one inspection of each nursing home prior to license renewal. Every inspection may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary and the stores and methods of supply. Following such inspection or inspections, written notice of any violation of this law or the rules and regulations promulgated hereunder, shall be given the applicant or licensee and the department. The notice shall describe the reasons for the facility's noncompliance. The notice shall inform the facility that it must comply with a plan of correction within a specified time, not to exceed sixty days from the date the plan of correction is approved by the department. The penalties in RCW 18.51.060 may be imposed if, after the specified period, the department determines that the facility has not complied. In life-threatening situations or situations which substantially limit the provider's capacity to render adequate care, the department may require immediate correction or proceed immediately under RCW 18.51.060. The department may prescribe by regulations that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. [1981 2nd ex.s. c 11 § 3; 1979 ex.s. c 211 § 63.]

Effective date—1979 ex.s. c 211: See RCW 74.42.920.
Nursing home standards: Chapter 74.42 RCW.

18.51.230 General inspection prior to license renewal—Required—Advance notice prohibited. The department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to RCW 18.51.190, conduct at least one general inspection prior to license renewal of all nursing homes in the state without providing advance notice of such inspection. Periodically, such inspection shall take place in part between the hours of 7 p.m. and 5 a.m. or on weekends. [1981 2nd ex.s. c 11 § 4; 1975 1st ex.s. c 99 § 10.]

18.51.310 Comprehensive plan of care for each resident—Evaluation—Classification of residents—Licensing standards—Regulations. (1) Within thirty days of admission, the department shall evaluate, through review and assessment, the comprehensive plan of care for each resident supported by the department under RCW 74.09.120 as now or hereafter amended.

(2) The department shall review the comprehensive plan of care for such resident at least annually or upon any change in the resident's classification.

(3) Based upon the assessment of the resident's needs, the department shall assign such resident to a classification. Developmentally disabled residents shall be classified under a separate system.

(4) The nursing home shall submit any request to modify a resident's classification to the department for the department's approval. The approval shall not be given until the department has reviewed the resident.

(5) The department shall adopt licensing standards suitable for implementing the civil penalty system authorized under this chapter and chapter 74.46 RCW.

(6) No later than July 1, 1981, the department shall adopt all those regulations which meet all conditions necessary to fully implement the civil penalty system authorized by this chapter, chapter 74.42 RCW, and chapter 74.46 RCW. [1981 2nd ex.s. c 11 § 5; 1981 1st ex.s. c 2 § 12; 1980 c 184 § 5; 1979 ex.s. c 211 § 67; 1977 ex.s. c 244 § 1.]

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 74.09.610.

Conflict with federal requirements—1980 c 184: See RCW 74.42.630.

Effective date—1979 ex.s. c 211: See RCW 74.42.920.

Conflicts with federal requirements and this section: RCW 74.46.850.

18.51.350 Conflict with federal requirements. If any part of this chapter is found to conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this chapter. [1981 2nd ex.s. c 11 § 1.]

Chapter 18.52A

NURSING ASSISTANTS—NURSING HOMES

Sections

18.52A.070 Repealed.

18.52A.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.64

PHARMACISTS

Sections

18.64.011

18.64.044

Definitions.

Shopkeeper's license—When required—Authority of licensee—Penalty.

Reviser's note—Sunset Act application: The state board of pharmacy is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.249. RCW 18.64.001, 18.64.003, 18.64.005, 18.64.007, and 18.64.009 are scheduled for future repeal under RCW 43.131.250.

18.64.011 Definitions. Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Board" means the Washington state board of pharmacy.

(3) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(4) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (b) to affect the structure or any function of the body of man or other animals.

(5) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(6) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(8) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(9) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(11) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug

therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(12) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(13) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than man.

(14) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(15) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(16) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(17) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(18) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(19) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.

(20) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(21) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The

label must include all information required by current federal and state law and pharmacy rules.

(22) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(23) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 29; 1979 c 90 § 5; 1963 c 38 § 1.]

Severability—1982 c 182: See RCW 19.02.901.

18.64.044 Shopkeeper's license—When required—Authority of licensee—Penalty. (1) A shopkeeper licensed as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to secure a shopkeeper's license through the master license system, and he or she shall pay the fee determined by the board for the same, and annually thereafter the fee determined by the board for renewal of the same; and shall at all times keep said license or the current renewal thereof conspicuously exposed in the shop to which it applies. In event such shopkeeper's license is not renewed by the master license expiration date, no renewal or new license shall be issued except upon payment of the license renewal fee and the master license delinquency fee under chapter 19.02 RCW: *Provided*, That every shopkeeper with six or fewer drugs shall pay a fee to be determined by the board. This license fee shall not authorize the sale of legend drugs or controlled substances.

(3) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having a license to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense. [1982 c 182 § 30; 1979 c 90 § 17.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

delinquency fee—Rate—Disposition: RCW 19.02.085.

expiration date: RCW 19.02.090.

system

existing licenses or permits registered under, when: RCW 19.02.810.

generally: RCW 18.64.011(23).

to include additional licenses: RCW 19.02.110.

Chapter 18.71 PHYSICIANS

Sections

18.71.030 Exemptions (as amended by 1982 c 51).

18.71.030 Exemptions (as amended by 1982 c 195).

18.71.030 Exemptions (as amended by 1982 c 51). Nothing in this chapter shall be construed to apply to or interfere in any way with the

practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, podiatry, optometry, drugless therapeutics or any other healing art licensed under the methods or means permitted by such license;

(4) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him by the laws and regulations of the United States;

(5) The practice of medicine by any practitioner licensed by another state or territory in which he resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(6) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the board: *Provided, however*, That the performance of such services be only pursuant to a regular course of instruction or assignments from his instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(7) The practice of medicine by a person serving a period of post-graduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state: *Provided*, That the performance of such services shall be only pursuant to his duties as a trainee;

(8) The practice of medicine by a person who is regularly enrolled in a physician's assistant program approved by the board: *Provided, however*, That the performance of such services be only pursuant to a regular course of instruction in said program: *And provided further*, That such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(9) The practice of medicine by a registered physician's assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(10) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(11) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the board of medical examiners: *Provided*, That a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist: *And provided further*, That the medical disciplinary board shall have jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to the provisions of chapter 18.72 RCW. [1982 c 51 § 1; 1975 1st ex.s. c 171 § 5; 1973 1st ex.s. c 110 § 1; 1961 c 284 § 4; 1919 c 134 § 12; 1909 c 192 § 19; RRS § 10024.]

18.71.030 Exemptions (as amended by 1982 c 195). Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.31 RCW, as now or hereafter amended;

(4) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, podiatry, optometry, drugless therapeutics or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the board: *Provided, however,* That the performance of such services be only pursuant to a regular course of instruction or assignments from his instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(8) The practice of medicine by a person serving a period of post-graduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state: *Provided,* That the performance of such services shall be only pursuant to his duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician's assistant program approved by the board: *Provided, however,* That the performance of such services be only pursuant to a regular course of instruction in said program: *And provided further,* That such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a registered physician's assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof. [1982 c 195 § 3; 1975 1st ex.s. c 171 § 5; 1973 1st ex.s. c 110 § 1; 1961 c 284 § 4; 1919 c 134 § 12; 1909 c 192 § 19; RRS § 10024.]

Reviser's note: RCW 18.71.030 was amended twice during the 1982 regular session of the legislature, each without reference to the other.

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

Severability—1982 c 195: See note following RCW 28A.31.150. *Administering drugs, inoculations, etc., by registered nurses permitted: RCW 18.88.290.*

Chapter 18.72

MEDICAL DISCIPLINARY BOARD

Sections

18.72.050	Election of members.
18.72.055	Membership, effect of creation of new congressional districts or boundaries.

18.72.050 Election of members. Members of the board, except the public member, shall be elected by secret mail ballot by the holders of licenses to practice medicine and surgery residing in each congressional district, now or hereafter existing in the state, and shall hold office until their successors are elected and qualified. Members from even-numbered congressional districts shall be elected in even-numbered years and members from odd-numbered congressional districts shall be elected in odd-numbered years. The board shall not be deemed unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. [1982 1st ex.s. c 30 § 3; 1977 c 71 § 2; 1955 c 202 § 5.]

18.72.055 Membership, effect of creation of new congressional districts or boundaries. The terms of office of members of the medical disciplinary board who are

elected from the various congressional districts shall not be affected by the creation of either new boundaries for congressional districts or additional districts. In such an event, each board member so elected may continue to serve in office for the balance of the term for which he or she was elected or appointed: *Provided,* That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 18.72-.080, as now or hereafter amended, by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this section following the creation of either new boundaries for congressional districts or additional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected. [1982 1st ex.s. c 30 § 4.]

Chapter 18.73

EMERGENCY MEDICAL CARE AND TRANSPORTATION SERVICES

Sections

18.73.110	Emergency medical technician certificates—Issuance—Qualification—Reciprocity—Duration—Renewal—Continuing education.
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18.73.110 Emergency medical technician certificates—Issuance—Qualification—Reciprocity—Duration—Renewal—Continuing education. The secretary shall specify the level of knowledge required to qualify as an emergency medical technician and shall issue a certificate of qualification to those eligible applicants who pass a written and practical examination given under the secretary's direction, or who provide proof of having graduated, with satisfactory performance, from a course of instruction, of not less than eighty hours, approved by the secretary. Reciprocity may be arranged, in granting emergency medical technician certificates, with a national certifying organization whose standards are at least equal to those established by the secretary.

The certificate shall be valid for a period of three years and may be renewed at expiration upon proof that the holder has met postcertification, continuing education requirements adopted by the secretary and upon passing an examination approved by the secretary. [1982 c 53 § 1; 1979 ex.s. c 261 § 11; 1973 1st ex.s. c 208 § 11.]

Chapter 18.92

VETERINARY MEDICINE, SURGERY AND DENTISTRY

Sections	
18.92.021	Veterinary board of governors—Appointment, qualifications, terms, officers—Quorum (as amended by 1982 c 134).
18.92.021	Veterinary board of governors—Appointment, qualifications, terms, officers (as amended by 1982 1st ex.s. c 30).
18.92.030	General duties of board.
18.92.070	Applications—Procedure—Qualifications—Eligibility to take examination.

18.92.021 Veterinary board of governors—Appointment, qualifications, terms, officers—Quorum (as amended by 1982 c 134). (1) There is created a Washington state veterinary board of governors consisting of six members, five of whom shall be licensed veterinarians, and one of whom shall be a lay member.

(2) The licensed members shall be appointed by the governor. At the time of their appointment the licensed members of the board must be actual residents of the state in active practice as licensed practitioners of veterinary medicine, surgery, and dentistry and must be citizens of the United States. Not more than one licensed member shall be from the same congressional district.

The terms of the first licensed members of the board shall be as follows: One member for five, four, three, two, and one years respectively. Thereafter the terms shall be for five years and until their successors are appointed and qualified.

(3) The lay member shall be appointed by the governor for a five year term and until the lay member's successor is appointed.

(4) A member may be appointed to serve a second term, if that term does not run consecutively. Vacancies in the board shall be filled by the governor, the appointee to hold office for the remainder of the unexpired term.

(5) Officers of the board shall be a chairman and a secretary—treasurer to be chosen by the members of the board from among its members.

(6) Four members of the board shall constitute a quorum at meetings of the board. [1982 c 134 § 1; 1979 ex.s. c 31 § 1; 1967 ex.s. c 50 § 2; 1959 c 92 § 3.]

18.92.021 Veterinary board of governors—Appointment, qualifications, terms, officers (as amended by 1982 1st ex.s. c 30). (1) There is created a Washington state veterinary board of governors consisting of six members, five of whom shall be licensed veterinarians, and one of whom shall be a lay member.

(2) The licensed members shall be appointed by the governor. At the time of their appointment the licensed members of the board must be actual residents of the state in active practice as licensed practitioners of veterinary medicine, surgery, and dentistry and must be citizens of the United States. Not more than one licensed member shall be from the same congressional district. The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

The terms of the first licensed members of the board shall be as follows: One member for five, four, three, two, and one years respectively. Thereafter the terms shall be for five years and until their successors are appointed and qualified.

(3) The lay member shall be appointed by the governor for a five year term and until the lay member's successor is appointed.

(4) A member may be appointed to serve a second term, if that term does not run consecutively. Vacancies in the board shall be filled by the governor, the appointee to hold office for the remainder of the unexpired term.

(5) Officers of the board shall be a chairman, who shall be the senior member, and a secretary—treasurer to be chosen by the members of the board. [1982 1st ex.s. c 30 § 5; 1979 ex.s. c 31 § 1; 1967 ex.s. c 50 § 2; 1959 c 92 § 3.]

Reviser's note: RCW 18.92.021 was amended twice during the 1982 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 consecutive sessions of the same legislature, see RCW 1.12.025.

Termination of board—Subject to Sunset Act: "The Washington state veterinary board of governors and its powers and duties shall terminate on June 30, 1983, and shall be subject to all of the processes provided in RCW 43.131.010 through 43.131.110 as now existing or hereafter amended." [1979 ex.s. c 31 § 2.]

18.92.030 General duties of board. It shall be the duty of the board to prepare examination questions, conduct examinations, and grade the answers of applicants. The board shall supervise the conduct of those practicing veterinary medicine, surgery, and dentistry and shall make such recommendations as it deems necessary to the director in regard to the granting, suspension, or revocation of licenses. It shall be the duty of the board to adopt a code of professional conduct for the practice of the veterinary profession in this state. The board, pursuant to chapter 34.04 RCW, shall have the power to adopt such rules and regulations as may be necessary to effectuate the purposes of this chapter including the performance of the duties and responsibilities of animal technicians: *Provided, however,* That such rules are adopted in the interest of good veterinary health care delivery to the consuming public, and do not prevent animal technicians from inoculating an animal. The board shall further have the power to adopt, by reasonable rules and regulations, standards prescribing requirements for veterinary medical facilities and to fix minimum standards of continuing veterinary medical education.

The board may employ a secretary who shall be exempt from the provisions of chapter 41.06 RCW and whose duties shall include carrying on correspondence of the board, maintaining records of board proceedings, and such other duties as may be assigned from time to time to him or her by the board. The department shall be the official office of record.

The board shall have the power to conduct hearings for the revocation or suspension of licenses. Such hearings may be conducted by an administrative law judge appointed under chapter 34.12 RCW.

This section shall take effect July 1, 1982, or on June 10, 1982, whichever is later. [1982 c 134 § 2; 1981 c 67 § 23; 1974 ex.s. c 44 § 2; 1967 ex.s. c 50 § 3; 1961 c 157 § 2; 1959 c 92 § 4; 1941 c 71 § 4; Rem. Supp. 1941 § 10040-4. FORMER PART OF SECTION: 1941 c 71 § 9; Rem. Supp. 1941 § 10040-9 now codified as RCW 18.92.035.]

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Termination of board—Subject to Sunset Act: See note following RCW 18.92.021.

18.92.070 Applications—Procedure—Qualifications—Eligibility to take examination. No person, unless registered or licensed to practice veterinary medicine, surgery, and dentistry in this state at the time this chapter shall become operative, shall begin the practice

of veterinary medicine, surgery and dentistry without first applying for and obtaining a license for such purpose from the director. In order to procure a license to practice veterinary medicine, surgery, and dentistry in the state of Washington, the applicant for such license shall file his or her application at least sixty days prior to date of examination upon a form furnished by the director of licensing, which, in addition to the fee provided by this chapter, shall be accompanied by satisfactory evidence that he or she is at least eighteen years of age and of good moral character, and by official transcripts or other evidence of graduation from a veterinary college satisfactory to and approved by the board. Said application shall be signed by the applicant and sworn to by him or her before some person authorized to administer oaths. When such application and the accompanying evidence are found satisfactory, the director shall notify the applicant to appear before the board for the next examination: *Provided, however*, That the director of licensing must deny the application of every applicant who has been guilty of unprofessional conduct within the two years immediately preceding date of application for license.

Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his or her educational program as determined by the board, in a veterinary college recognized by the board, to take the examination or any part thereof prior to satisfying the requirements for application for a license: *Provided however*, That no license shall be issued to such applicant until such requirements are satisfied. [1982 c 134 § 3; 1979 c 158 § 72; 1974 ex.s. c 44 § 5; 1971 ex.s. c 292 § 28; 1941 c 71 § 6; Rem. Supp. 1941 § 10040-6. Formerly RCW 18.92.050, part, 18.92.070, part, and 18.92.080, part.]

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

Chapter 18.100

PROFESSIONAL SERVICE CORPORATIONS

Sections

- 18.100.035 Fees for services by secretary of state.
 18.100.120 Name—Abbreviations—Listing of shareholders.
 18.100.140 Illegal, unethical or unauthorized conduct not authorized.
 18.100.150 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

18.100.035 Fees for services by secretary of state.
 See RCW 43.07.120.

18.100.120 Name—Abbreviations—Listing of shareholders. Corporations organized pursuant to this chapter shall render professional service and exercise its

authorized powers under a name permitted by law and the professional ethics of the profession in which the corporation is so engaged. In the event that the words "company", "corporation" or "incorporated" or any other word, abbreviation, affix or prefix indicating that it is a corporation shall be used, it shall be accompanied with the abbreviation "P.S." or "P.C." or the words "professional service". With the filing of its first annual report and any filings thereafter, professional service corporation shall list its then shareholders: *Provided*, That notwithstanding the foregoing provisions of this section, the corporate name of a corporation organized to render dental services shall contain the full names or surnames of all shareholders and no other word than "chartered" or the words "professional services" or the abbreviation "P.S." or "P.C." [1982 c 35 § 169; 1969 c 122 § 12.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

18.100.140 Illegal, unethical or unauthorized conduct not authorized. Nothing in this chapter shall authorize a director, officer, shareholder, agent or employee of a corporation organized under this chapter, or a corporation itself organized under this chapter, to do or perform any act which would be illegal, unethical or unauthorized conduct under the provisions of the following acts: (1) Medical disciplinary act, chapter 18.72 RCW; (2) Anti-rebating act, chapter 19.68 RCW; (3) State bar act, chapter 2.48 RCW; (4) Professional accounting act, chapter 18.04 RCW; (5) Professional architects act, chapter 18.08 RCW; (6) Professional auctioneers act, chapter 18.11 RCW; (7) Barbers, chapter 18.15 RCW; (8) Cosmetology, chapter 18.18 RCW; (9) Boarding homes act, chapter 18.20 RCW; (10) Podiatry, chapter 18.22 RCW; (11) Chiropractic act, chapter 18.25 RCW; (12) Registration of contractors, chapter 18.27 RCW; (13) Debt adjusting act, chapter 18.28 RCW; (14) Dental hygienist act, chapter 18.29 RCW; (15) Dentistry, chapter 18.32 RCW; (16) Dispensing opticians, chapter 18.34 RCW; (17) Drugless healing, chapter 18.36 RCW; (18) Embalmers and funeral directors, chapter 18.39 RCW; (19) Engineers and land surveyors, chapter 18.43 RCW; (20) Escrow agents registration act, chapter 18.44 RCW; (21) Furniture and bedding industry, chapter 18.45 RCW; (22) Maternity homes, chapter 18.46 RCW; (23) Midwifery, chapter 18.50 RCW; (24) Nursing homes, chapter 18.51 RCW; (25) Optometry, chapter 18.53 RCW; (26) Osteopathy, chapter 18.57 RCW; (27) Pharmacists, chapter 18.64 RCW; (28) Physical therapy, chapter 18.74 RCW; (29) Practical nurses, chapter 18.78 RCW; (30) Prophylactic vendors, chapter 18.81 RCW; (31) Psychologists, chapter 18.83 RCW; (32) Real estate brokers and salesmen, chapter 18.85 RCW; (33) Registered professional nurses, chapter 18.88 RCW; (34) Sanitarians, chapter 18.90 RCW; (35) Veterinarians, chapter 18.92 RCW. [1982 c 35 § 170; 1969 c 122 § 14.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

18.100.150 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

19.02.920 Construction.

Title 19
BUSINESS REGULATIONS—
MISCELLANEOUS

Chapters

- 19.02 Business license center act.
19.09 Charitable solicitations.
19.10 Charitable trusts.
19.16 Collection agencies.
19.24 Copyright protection.
19.27 State building code.
19.31 Employment agencies.
19.32 Food lockers.
19.77 Trademark registration.
19.85 Regulatory fairness act.
19.86 Unfair business practices—Consumer protection.
19.91 Unfair cigarette sales below cost act.
19.105 Camping clubs.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 19.02

BUSINESS LICENSE CENTER ACT
(Formerly: Business registration and licensing system)

Sections

- 19.02.010 Purpose—Intent.
19.02.020 Definitions.
19.02.030 Center—Created—Duties—Administrator—Rules, review of.
19.02.035 Center—To compile and distribute information—Scope.
19.02.038 Center—Duties—To be completed by date certain.
19.02.040 Board of review—Created—Members—Chairperson—Meetings—Duties.
19.02.060 Repealed.
19.02.070 Issuance of licenses—Scope—Master application and fees—Action by regulatory agency, when—Agencies provided information.
19.02.080 Licensing fees—Disposition of.
19.02.085 Licensing fees—Master license delinquency fee—Rate—Disposition.
19.02.090 Master license—Expiration date—Prorated fees—Conditions of renewal.
19.02.100 Master license—Issuance or renewal—Denied, when.
19.02.110 Master license—System to include additional licenses.
19.02.120 Agencies to review licensure requirements and report to governor.
19.02.130 Governor to submit recommendations on licensure requirements to legislature.
19.02.200 Center as secretary's agent for corporate renewals—Proposals for—Schedule.
19.02.800 Master license system—Certain business or professional activity licenses exempt.
19.02.810 Master license system—Existing licenses or permits registered under, when.
19.02.890 Short title.
19.02.901 Severability—1982 c 182.

19.02.010 Purpose—Intent. Experience under the pilot program of the business coordination act suggests that the number of state licenses required for new businesses and the renewal of existing licenses places an undue burden on business. Studies under this act also show that the state can reduce its costs by coordinating and consolidating application forms, information, and licenses. Therefore, the legislature extends the business coordination act by establishing a business license program and license center to develop and implement the following goals and objectives:

(1) The first goal of this system is to provide a convenient, accessible, and timely one-stop system for the business community to acquire and maintain the necessary state licenses to conduct business. This system shall be developed and operated in the most cost-efficient manner for the business community and state. The objectives of this goal are:

(a) To provide a service whereby information is available to the business community concerning all state licensing and regulatory requirements, and to the extent feasible, include local and federal information concerning the same regulated activities;

(b) To provide a system which will enable state agencies to efficiently store, retrieve, and exchange license information with due regard to privacy statutes; to issue and renew master licenses where such licenses are appropriate; and to provide appropriate support services for this objective;

(c) To provide at designated locations one consolidated application form to be completed by any given applicant; and

(d) To provide a state-wide system of common business identification.

(2) The second goal of this system is to aid business and the growth of business in Washington state by instituting a master license system that will reduce the paperwork burden on business, and promote the elimination of obsolete and duplicative licensing requirements by consolidating existing licenses and applications.

It is the intent of the legislature that the authority for determining if a requested license shall be issued shall remain with the agency legally authorized to issue the license.

It is the further intent of the legislature that those licenses which no longer serve a useful purpose in regulating certain business activities should be eliminated. [1982 c 182 § 1; 1977 ex.s. c 319 § 1.]

Severability—Effective date —1977 ex.s. c 319: See RCW 19.02.900 and 19.02.910.

19.02.020 Definitions. As used in this chapter, the following words shall have the following meanings:

(1) "System" means the mechanism by which master licenses are issued and renewed, license and regulatory information is disseminated, and account data is exchanged by the agencies;

(2) "Business license center" means the business registration and licensing center established by this chapter

and located in and under the administrative control of the department of licensing;

(3) "Board of review" means the body established to review policies and rules adopted by the department of licensing for carrying out the provisions of this chapter;

(4) "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this chapter;

(5) "Master license" means the single document designed for public display issued by the business license center which certifies state agency license approval and which incorporates the endorsements for individual licenses included in the master license system, which the state requires for any person subject to this chapter;

(6) "License" means the whole or part of any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity;

(7) "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business or professional activities;

(8) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies;

(9) "Director" means the director of licensing;

(10) "Department" means the department of licensing; and

(11) "Regulatory agency" means any state agency, board, commission, or division which regulates one or more professions, occupations, industries, businesses, or activities. [1982 c 182 § 2; 1979 c 158 § 75; 1977 ex.s. c 319 § 2.]

19.02.030 Center—Created—Duties—Administrator—Rules, review of. (1) There is created within the department of licensing a business license center.

(2) The duties of the center shall include:

(a) Developing and administering a computerized one-stop master license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes, as well as issuing and renewing master licenses in an efficient manner;

(b) Providing a license information service detailing requirements to establish or engage in business in this state;

(c) Providing for staggered master license renewal;

(d) Identifying types of licenses appropriate for inclusion in the master license system;

(e) Recommending in reports to the governor and the legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing or inspection requirements; and

(f) Incorporating licenses into the master license system.

(3) The department of licensing shall establish the position of assistant director of the business license center who will also act as executive secretary to the board of review.

(4) The director of licensing may adopt under chapter 34.04 RCW such rules as may be necessary to effectuate the purposes of this chapter. All proposed rules shall be submitted in writing to the board of review for its review and recommendations. [1982 c 182 § 3; 1979 c 158 § 76; 1977 ex.s. c 319 § 3.]

19.02.035 Center—To compile and distribute information—Scope. The business license center shall compile information regarding the regulatory programs associated with each of the licenses obtainable under the master license system. This information shall include, at a minimum, a listing of the statutes and administrative rules requiring the licenses and pertaining to the regulatory programs that are directly related to the licensure. For example, for pesticide dealers' licenses, the information shall include the statutes and rules requiring licensing as well as those pertaining to the subject of registering or distributing pesticides.

The business license center shall provide information governed by this section to any person requesting it. Materials used by the center to describe the services provided by the center shall indicate that this information is available upon request. [1982 c 182 § 4.]

19.02.038 Center—Duties—To be completed by date certain. The business license center shall, with the assistance and full cooperation of the board of review, conclude the following tasks by the dates indicated:

(1) By February 1, 1982, ensure that packets containing the forms for the use of the master licensing system, as well as forms for those licenses commonly needed to begin most kinds of businesses, and materials explaining the use of the forms, the system, and the center are available at each headquarters and each field office of the departments of revenue, employment security, labor and industry, and licensing and at the office of the secretary of state;

(2) By July 1, 1982, revise the application forms distributed in subsection (1) of this section such that all of the forms have a common format;

(3) By January 1, 1983:

(a) Identify those licenses needed to begin most kinds of businesses in the state that should be consolidated and processed under the master license system;

(b) Develop a checklist for each major category of industry that identifies the license renewal requirements for licenses not included in the master license system;

(c) Identify a schedule for implementing the long-range goals of the business license center, including the use of a common data base by state agencies;

(d) For licenses not processed under the master license system and for which renewal fees are fixed rather than variable, develop a schedule for processing the licenses under the system;

(e) Authorize those offices of the various county auditors that are served by automated fee deposit systems

to act as agents for the center to collect fees payable under the master license system;

(4) By July 1, 1983:

(a) Assign a common business identifier to each master license system account for use by all state agencies;

(b) Develop a common format for issuing all licenses to businesses for which inspections are not required; and

(5) By June 30, 1985, use the computer services of an agency of the state that has been designated as the state's principal computer services agency, if one has been so designated. [1982 c 182 § 13.]

19.02.040 Board of review—Created—Members—Chairperson—Meetings—Duties. (1) There is hereby created a board of review to provide policy direction to the department of licensing as it establishes and operates the business registration and licensing system. The board of review shall be composed of the following officials or their designees:

- (a) Director, department of revenue;
 - (b) Director, department of labor and industries;
 - (c) Commissioner, employment security department;
 - (d) Director, department of agriculture;
 - (e) Director, department of commerce and economic development;
 - (f) Director, department of licensing;
 - (g) Director, office of financial management;
 - (h) Chairman, liquor control board;
 - (i) Secretary, department of social and health services;
 - (j) Secretary of state;
 - (k) The governor; and
- (l) As ex officio members:
- (i) The president of the senate or the president's designee;
 - (ii) The speaker of the house or the speaker's designee; and
 - (iii) A representative of a recognized state-wide organization of employers, representing a large cross section of the Washington business community, to be appointed by the governor.

(2) The governor shall be the chairperson. In the governor's absence, the secretary of state shall act as chairperson.

(3) The board shall meet at the call of the chairperson at least semi-annually or at the call of a member to:

- (a) Establish interagency policy guidelines for the system;
- (b) Review the findings, status, and problems of system operations and recommend courses of action;
- (c) Receive reports from industry and agency task forces;
- (d) Determine in questionable cases whether a specific license is to be included in the master license system;
- (e) Review and make recommendations on rules proposed by the business license center and any amendments to or revisions of the center's rules.

(4) The board shall submit a report to the legislature each biennium identifying the licenses that the board believes should be added to the list of those processed

under the master license system. [1982 c 182 § 5; 1979 c 158 § 77; 1977 ex.s. c 319 § 4.]

Business license center—Duties—To be completed by date certain: RCW 19.02.038.

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

19.02.070 Issuance of licenses—Scope—Master application and fees—Action by regulatory agency, when—Agencies provided information. (1) Any person requiring licenses which have been incorporated into the system shall submit a master application to the department requesting the issuance of the licenses. The master application form shall contain in consolidated form information necessary for the issuance of the licenses.

(2) The applicant shall include with the application the sum of all fees and deposits required for the requested individual license endorsements.

(3) Irrespective of any authority delegated to the department of licensing to implement the provisions of this chapter, the authority for approving issuance and renewal of any requested license that requires a preclicensing or renewal investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally authorized to issue the license shall remain with that agency. The business license center has the authority to issue those licenses for which proper fee payment and a completed application form have been received and for which no preclicensing or renewal approval action is required by the regulatory agency.

(4) Upon receipt of the application and proper fee payment for any license for which issuance is subject to regulatory agency action under subsection (3) of this section, the department shall immediately notify the regulatory agency with authority to approve issuance or renewal of the license requested by the applicant. Each regulatory agency shall advise the department within a reasonable time after receiving the notice: (a) That the agency approves the issuance of the requested license and will advise the applicant of any specific conditions required for issuing the license; (b) that the agency denies the issuance of the license and gives the applicant reasons for the denial; or (c) that the application is pending.

(5) The department shall issue a master license endorsed for all the approved licenses to the applicant and advise the applicant of the status of other requested licenses. It is the responsibility of the applicant to contest the decision regarding conditions imposed or licenses denied through the normal process established by statute or by the agency with the authority for approving issuance of the license.

(6) Regulatory agencies shall be provided information from the master application for their licensing and regulatory functions. [1982 c 182 § 6; 1979 c 158 § 79; 1977 ex.s. c 319 § 7.]

19.02.080 Licensing fees—Disposition of. All fees collected under the system shall be deposited with the state treasurer. Upon issuance or renewal of the master

license or supplemental licenses, the department shall distribute the fees to the appropriate accounts under the applicable statutes for those agencies' licenses. [1982 c 182 § 7.]

19.02.085 Licensing fees—Master license delinquency fee—Rate—Disposition. To encourage timely renewal by applicants, a master license delinquency fee shall be imposed on licensees who fail to renew by the master license expiration date. The master license delinquency fee shall be computed as fifty percent of a base comprised of the licensee's renewal fee minus corporate licensing taxes, corporation annual report fee, and any interest fees or penalties charged for late taxes or corporate renewals. The master license delinquency fee shall be added to the renewal fee and paid by the licensee before a master license shall be renewed. The delinquency fee shall be deposited in the general fund. [1982 c 182 § 9.]

19.02.090 Master license—Expiration date—Prorated fees—Conditions of renewal. (1) The department shall assign an expiration date for each master license. All renewable licenses endorsed on that master license shall expire on that date. License fees shall be prorated to accommodate the staggering of expiration dates.

(2) All renewable licenses endorsed on a master license shall be renewed by the department under conditions originally imposed unless a regulatory agency advises the department of conditions or denials to be imposed before the endorsement is renewed. [1982 c 182 § 8.]

19.02.100 Master license—Issuance or renewal—Denied, when. (1) The department shall not issue or renew a master license to any person if:

(a) The person does not have a valid tax registration, if required;

(b) The person is a corporation delinquent in fees or penalties owing to the secretary of state or is not validly registered under Title 23A RCW, chapter 18.100 RCW, Title 24 RCW, and any other statute now or hereafter adopted which gives corporate or business licensing responsibilities to the secretary of state; or

(c) The person has not submitted the sum of all fees and deposits required for the requested individual license endorsements, any outstanding master license delinquency fee, or other fees and penalties to be collected through the system.

(2) Nothing in this section shall prevent registration by the state of an employer for the purpose of paying an employee of that employer industrial insurance or unemployment insurance benefits. [1982 c 182 § 10.]

19.02.110 Master license—System to include additional licenses. In addition to the licenses processed under the master license system prior to April 1, 1982, on July 1, 1982, use of the master license system shall be expanded as provided by this section.

Applications for the following shall be filed with the business license center and shall be processed, and renewals shall be issued, under the master license system:

(1) Nursery dealer's licenses required by chapter 15-.13 RCW;

(2) Seed dealer's licenses required by chapter 15.49 RCW;

(3) Pesticide dealer's licenses required by chapter 15-.58 RCW;

(4) Shopkeeper's licenses required by chapter 18.64 RCW;

(5) Refrigerated locker licenses required by chapter 19.32 RCW;

(6) Wholesalers licenses and retailers licenses required by chapter 19.91 RCW;

(7) Bakery licenses and distributor's licenses required by chapter 69.12 RCW; and

(8) Egg dealer's licenses required by chapter 69.25 RCW. [1982 c 182 § 11.]

19.02.120 Agencies to review licensure requirements and report to governor. The gambling commission, department of general administration, state board of health, department of social and health services, department of ecology, department of labor and industries, department of agriculture, department of licensing, department of natural resources, department of transportation, insurance commissioner, employment security department, liquor control board, utilities and transportation commission, and department of revenue shall review the licenses, as defined in RCW 19.02.020, and requirements for licensure within their jurisdictions and report to the governor no later than July 1, 1983, those that they recommend be eliminated, modified, or consolidated with other requirements. In the report, each agency in this section shall identify the need for continuing each licensure requirement not recommended for elimination. In identifying the need for continuation, each agency in this section shall be as specific as possible and shall not use the existence of a statute as the source of the need for continuation. [1982 c 182 § 14.]

19.02.130 Governor to submit recommendations on licensure requirements to legislature. The governor shall review the reports submitted under RCW 19.02.120 and shall submit to the speaker of the house of representatives and the president of the senate by January 9, 1984, recommendations for the elimination, consolidation, or modification of licensing requirements. At least two copies of each of the agency reports shall be transmitted with the governor's recommendations. [1982 c 182 § 15.]

19.02.200 Center as secretary's agent for corporate renewals—Proposals for—Schedule. See RCW 43.07.200.

19.02.800 Master license system—Certain business or professional activity licenses exempt. Except as provided in RCW 43.07.200, the provisions of this chapter regarding the processing of license applications and

renewals under a master license system shall not apply to those business or professional activities that are licensed or regulated under chapter 31.04, 31.08, 31.12, 31.12A, or 31.13 RCW or under Title 30, 32, 33, or 48 RCW. [1982 c 182 § 17.]

19.02.810 Master license system—Existing licenses or permits registered under, when. A license or permit affected by this act and otherwise valid on April 1, 1982, need not be registered under the master license system until the renewal or expiration date of that license or permit under the laws in effect prior to April 1, 1982, unless otherwise revoked or suspended. [1982 c 182 § 46.]

Reviser's note: "This act" consists of the 1982 c 182 amendments to RCW 15.13.250, 15.13.280, 15.13.290, 15.13.300, 15.49.380, 15.49.390, 15.58.030, 15.58.180, 15.58.190, 18.64.011, 18.64.044, 19.02.010, 19.02.020, 19.02.030, 19.02.040, 19.02.070, 19.32.020, 19.32.040, 19.32.050, 19.91.010, 19.91.130, 19.91.140, 19.91.150, 69.12.020, 69.12.030, 69.12.040, 69.12.050, 69.25.020, 69.25.050, 69.25.060; the enactment of RCW 15.49.055, 19.02.035, 19.02.038, 19.02.080, 19.02.085, 19.02.090, 19.02.100, 19.02.110, 19.02.120, 19.02.130, 19.02.800, 19.02.810, 19.02.890, 19.02.901, 19.02.920, and 43.07.200; and the repeal of RCW 19.02.060 and 82.24.220.

19.02.890 Short title. This chapter may be known and cited as the business license center act. [1982 c 182 § 18.]

19.02.901 Severability—1982 c 182. 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. [1982 c 182 § 47.]

Reviser's note: For "this act," see note following RCW 19.02.810.

19.02.920 Construction. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out its purposes. [1982 c 182 § 16.]

Chapter 19.09

CHARITABLE SOLICITATIONS

Sections

19.09.040	Repealed.
19.09.060	Repealed.
19.09.070	Repealed.
19.09.080	Repealed.
19.09.090	Repealed.
19.09.100	Conditions applicable to solicitations.
19.09.110	Repealed.
19.09.140	Repealed.
19.09.150	Repealed.
19.09.160	Repealed.
19.09.170	Repealed.
19.09.180	Repealed.
19.09.190	Professional fund raisers or solicitors—Surety bond.
19.09.200	Books, records and contracts.
19.09.210	Financial statements.
19.09.220	Repealed.
19.09.230	Using the name of another person.
19.09.250	Repealed.
19.09.260	Repealed.
19.09.265	Repealed.
19.09.270	Repealed.

19.09.275	Violations—Penalties.
19.09.280	Repealed.
19.09.285	Repealed.
19.09.290	Repealed.
19.09.300	Repealed.
19.09.310	Repealed.
19.09.320	Repealed.
19.09.340	Violations deemed unfair practice under chapter 19.86 RCW—Application of chapter 9.04 RCW—Procedure.
19.09.350	Repealed.
19.09.360	Repealed.
19.09.370	Repealed.
19.09.900	Repealed.

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

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

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

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

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

19.09.100 Conditions applicable to solicitations. The following conditions apply to solicitations as defined by RCW 19.09.020:

(1) The cost of solicitation (including payments to professional fund raisers and professional solicitors and internal fund raising and solicitation salaries and expenses) during any calendar year shall not exceed twenty percent of the total moneys, pledges, or other property raised or received or to be raised or received by reason of any solicitation and/or fund raising activities or campaigns. The term "internal fund raising and solicitation salaries and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as is fairly allocable (on a time or other appropriate basis) to its solicitation and/or fund raising expense. As provided in RCW 19.09.020(5), the cost of solicitation shall not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as a part of its fund-raising activities. The amount of such expenditure by the organization shall be deducted from the gross amount collected, or from the organization's support received directly from the public, prior to computing the percentage limitation. In the event special facts or circumstances are presented showing that expenses higher than twenty percent were not or will not be unreasonable, and the organization is primarily engaged in research, advocacy, or public education and uses its own paid staff to carry out these functions, the director shall allow such higher expense and issue an order so stating. Such an order shall be reviewed annually by the director. When such an order is issued, the cost of solicitation shall be disclosed by the organization to each person being solicited at the time of each solicitation. To further

the purposes of this chapter, the director shall from time to time apprise the public of the names of those organizations for which such an order has been issued. The director may require submission of any information necessary in making a determination whether to issue such an order. Compliance with this subsection is required prior to commencing solicitations;

(2) A charitable organization shall comply with all local governmental regulations which apply to soliciting for or on behalf of charitable organizations;

(3) The advertising material and the general promotional plan for a solicitation shall not be false, misleading, or deceptive, and shall afford full and fair disclosure;

(4) Solicitations shall not be conducted by a charitable organization that has, or if a corporation, its officers, directors, or principals have, been convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any other state or foreign country within the past ten years and has been subject to any permanent injunction or administrative order or judgment, under the provisions of RCW 19.86.080 or 19.86.090, involving a violation or violations of the provisions of RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations. [1982 c 227 § 7; 1977 ex.s. c 222 § 6; 1974 ex.s. c 106 § 3; 1973 1st ex.s. c 13 § 10.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

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

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

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

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

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

19.09.190 Professional fund raisers or solicitors—Surety bond. Every person employed or retained as a professional fund raiser or professional solicitor by or for a charitable organization shall execute a surety bond as principal in the amount of five thousand dollars with one or more sureties whose liability in the aggregate as such sureties will at least equal the said sum. The bond shall run to the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance or misfeasance in the conduct of such solicitation. [1982 c 227 § 8; 1977 ex.s. c 222 § 9; 1973 1st ex.s. c 13 § 19.]

Effective date—1982 c 227: See note following RCW 18.34.130.

19.09.200 Books, records and contracts. Charitable organizations and professional fund raisers shall maintain accurate, current, and readily available books and records at their usual business locations until at least three years shall have elapsed following the effective period to which they relate.

All contracts between professional fund raisers and charitable organizations shall be in writing and true and correct copies of such contracts or records thereof shall be kept on file in the various offices of the charitable organization and/or professional fund raiser for a three-year period as provided in this section. Such records and contracts shall be available for inspection and examination by the attorney general or by the county prosecuting attorney. A copy of such contract or record shall be submitted by the charitable organization or professional fund raiser, within ten days, following receipt of a written demand therefor from the attorney general or county prosecutor. [1982 c 227 § 9; 1973 1st ex.s. c 13 § 20.]

Effective date—1982 c 227: See note following RCW 18.34.130.

19.09.210 Financial statements. Upon the request of the attorney general or the county prosecutor, a charitable organization shall submit a financial statement containing, but not limited to, the following information:

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required either by general rule or by specific written request of the director.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to professional fund raisers and solicitors.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same fiscal period, to its parent organization, subsidiaries, or affiliates, if any. [1982 c 227 § 10; 1977 ex.s. c 222 § 10; 1975 1st ex.s. c 219 § 1; 1973 1st ex.s. c 13 § 21.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

19.09.230 Using the name of another person. No charitable organization, professional fund raiser, or professional solicitor shall knowingly use the name of any other person for the purpose of soliciting contributions from persons in this state without the written consent of such other person: *Provided*, That such consent may be deemed to have been given by anyone who is a director, trustee, other officer, employee, agent, professional fund raiser, or professional solicitor of the charitable organization.

A person may be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery,

advertisement, brochure, or correspondence of the charitable organization or person or if such name is listed or represented to any one who has contributed to, sponsored, or endorsed the charitable organization or person, or its or his activities. [1982 c 227 § 11; 1973 1st ex.s. c 13 § 23.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

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

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

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

19.09.275 Violations—Penalties. Any person who wilfully and knowingly violates any provisions of this chapter or who shall wilfully and knowingly give false or incorrect information to the director, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not less than one hundred dollars and not more than two hundred and fifty dollars or be imprisoned in the county jail for not more than forty-five days, or both; and for the second and any subsequent offense, to pay a fine of not less than two hundred and fifty dollars and not more than five hundred dollars or be imprisoned in the county jail for not more than ninety days, or both. [1982 c 227 § 12; 1977 ex.s. c 222 § 14.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

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

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

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

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

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

19.09.340 Violations deemed unfair practice under chapter 19.86 RCW—Application of chapter 9.04 RCW—Procedure. (1) The commission by any person of an act or practice prohibited by this chapter is hereby

declared to be an unfair act or practice or unfair method of competition in the conduct of trade or commerce for the purpose of application of the Consumer Protection Act, chapter 19.86 RCW.

(2) The director may refer such evidence, as may be available to him, concerning violations of this chapter to the attorney general or the prosecuting attorney of the county wherein the alleged violation arose. In addition to any other action they might commence, the attorney general or the county prosecuting attorney may bring an action in the name of the state, with or without such reference, against any person to restrain and prevent the doing of any act or practice prohibited by this chapter: *Provided*, That this chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW, as now or hereafter amended, and the powers and duties of the attorney general and the prosecuting attorney as they may appear in the aforementioned chapters, shall apply against all persons subject to this chapter. [1982 c 227 § 13; 1973 1st ex.s. c 13 § 34.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

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

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

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

Chapter 19.10 CHARITABLE TRUSTS

Sections

19.10.240 Tax Reform Act of 1969, state implementation—
Construction of references to federal code.

19.10.240 Tax Reform Act of 1969, state implementation—Construction of references to federal code. All references to sections of the Internal Revenue Code of 1954 shall include all amendments thereto adopted by the Congress of the United States on or before July 10, 1982. [1982 1st ex.s. c 41 § 3; 1971 c 58 § 5.]

Chapter 19.16 COLLECTION AGENCIES

Sections

19.16.500 Public bodies may retain collection agencies to collect public debts.

19.16.500 Public bodies may retain collection agencies to collect public debts. (1) Agencies, departments, taxing districts, political subdivisions of the state, counties, and incorporated cities may retain, by written contract, collection agencies licensed under this chapter for

the purpose of collecting public debts owed by any person.

(2) No debt may be assigned to a collection agency unless (a) there has been an attempt to advise the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid, and (b) at least thirty days have elapsed from the time the notice was sent.

(3) Collection agencies assigned debts under this section shall have only those remedies and powers which would be available to them as assignees of private creditors.

(4) For purposes of this section, the term debt shall include fines and other debts. [1982 c 65 § 1.]

Chapter 19.24

COPYRIGHT PROTECTION

Sections

19.24.010	Repealed.
19.24.020	Repealed.
19.24.040	Repealed.
19.24.050	Repealed.
19.24.055	Repealed.
19.24.060	Repealed.
19.24.100	Repealed.
19.24.140	Repealed.
19.24.280	Repealed.
19.24.290	Repealed.
19.24.300	Repealed.
19.24.900	Repealed.

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 19.27

STATE BUILDING CODE

Sections

19.27.060 Local building regulations superseded—Exceptions.

19.27.060 Local building regulations superseded—Exceptions. (1) Except as permitted or provided otherwise under the provisions of RCW 19.27.040 and subsections (3), (4), (5), and (6) of this section, the state building code supersedes all county, city or town building regulations containing less than the minimum performance standards and objectives contained in the state building code.

(2) Except as permitted or provided otherwise under the provisions of RCW 19.27.040 and subsections (3), (4), (5), and (6) of this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any other governmental subdivision.

(3) The governing body of each city, town or county may limit the application of any rule or regulation or portion of the state building code to include or exclude specified classes or types of buildings or structures, according to use, occupancy, or such other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable: *Provided*, That in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses, constitute combustible stock for the purposes of application of the uniform fire code.

(4) The provisions of this chapter shall not apply to any building four or more stories high with an F occupancy as defined by the uniform building code, chapter 6, 1973 edition, and with a fire insurance classification rating of 1, 2, or 3 as defined by a recognized fire rating bureau or organization.

(5) The provisions of the uniform fire code concerning access roadways for fire department apparatus applying to dwellings which are classified as group R, division 3 occupancies or group M occupancies in the 1976 edition of the uniform building code, shall be applied at the discretion of the governing body of each city, town or county.

(6) The provisions of the state building code are preempted by any physical standards adopted by the state jail commission under RCW 70.48.050 when the code provisions relating to the installation or use of sprinklers in the cells conflict with the standards and the secure and humane operation of jails. [1981 2nd ex.s. c 12 § 5; 1980 c 64 § 1; 1975 1st ex.s. c 282 § 2; 1974 ex.s. c 96 § 6.]

Chapter 19.31
EMPLOYMENT AGENCIES

Sections

19.31.100	Applications—Contents—Filing—Qualifications of applicants and licensees—Waiver.
19.31.200	Repealed.

19.31.100 Applications—Contents—Filing—Qualifications of applicants and licensees—Waiver. (1) Every applicant for an employment agency's license or a renewal thereof shall file with the director a written application stating the name and address of the applicant; the street and number of the building in which the business of the employment agency is to be conducted; the name of the person who is to have the general management of the office; the name under which the business of the office is to be carried on; whether or not the applicant is pecuniarily interested in the business to be carried on under the license; shall be signed by the applicant and sworn to before a notary public; and shall identify anyone holding over twenty percent interest in the agency. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of the corporation, and shall be signed and sworn to by the president and secretary thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. The application shall also state whether or not the applicant is, at the time of making the application, or has at any previous time been engaged in or interested in or employed by anyone engaged in the business of an employment agency.

(2) The application shall require a certification that no officer or holder of more than twenty percent interest in the business has been convicted of a felony within ten years of the application which directly relates to the business for which the license is sought, or had any judgment entered against such person in any civil action involving fraud, misrepresentation, or conversion.

(3) All applications for employment agency licenses shall be accompanied by a copy of the form of contract and fee schedule to be used between the employment agency and the applicant.

(4) No license to operate an employment agency in this state shall be issued, transferred, renewed, or remain in effect, unless the person who has or is to have the general management of the office has qualified pursuant to this section. The director may, for good cause shown, waive the requirement imposed by this section for a period not to exceed one hundred and twenty days. Persons who have been previously licensed or who have operated to the satisfaction of the director for at least one year prior to September 21, 1977 as a general manager shall be entitled to operate for up to one year from such date before being required to qualify under this section. In order to qualify, such person shall, through testing procedures developed by the director, show that such person has a knowledge of this law, pertinent labor laws, and laws against discrimination in employment in this state

and of the United States. Said examination shall be given at least once each quarter and a fee for such examination shall be established by the director. Nothing in this chapter shall be construed to preclude any one natural person from being designated as the person who is to have the general management of up to three offices operated by any one licensee. [1982 c 227 § 14; 1977 ex.s. c 51 § 5; 1969 ex.s. c 228 § 10.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

Chapter 19.32
FOOD LOCKERS

Sections

19.32.020	Definitions.
19.32.040	Licensing required—Application.
19.32.050	License fees—Expiration—Annual renewal fees.

19.32.020 Definitions. Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

(1) "Refrigerated locker" or "locker" means any place, premises or establishment where facilities for the cold storage and preservation of human food in separate and individual compartments are offered to the public upon a rental or other basis providing compensation to the person offering such services.

(2) "Person" includes any individual, partnership, corporation, association, county, municipality, cooperative group, or other entity engaging in the business of operating or owning or offering the services of refrigerated lockers as above defined.

(3) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 31; 1943 c 117 § 2; Rem. Supp. 1943 § 6294-126.]

Severability—1982 c 182: See RCW 19.02.901.

19.32.040 Licensing required—Application. No person hereafter shall engage within this state in the business of owning, operating or offering the services of any refrigerated locker or lockers without having obtained a license for each such place of business. Application for such license shall be made through the master license system. Such licenses shall be granted as a matter of right unless conditions exist which are grounds for a cancellation or revocation of a license as hereinafter set forth. [1982 c 182 § 32; 1943 c 117 § 3; Rem. Supp. 1943 § 6294-127.]

Severability—1982 c 182: See RCW 19.02.901.

Master license system

defined: RCW 19.32.020(3).

existing licenses or permits registered under, when: RCW 19.02.810.

to include additional licenses: RCW 19.02.110.

19.32.050 License fees—Expiration—Annual renewal fees. (1) An annual fee of ten dollars shall accompany each application for a refrigerated locker license or renewal of the license. All such license and renewal fees shall be deposited in the state's general fund.

(2) Each such license shall expire on the master license expiration date unless sooner revoked for cause. Renewal may be obtained annually by paying the required annual license fee. Such license fee shall not be transferable to any person nor be applicable to any location other than that for which originally issued. [1982 c 182 § 33; 1967 c 240 § 39; 1943 c 117 § 4; Rem. Supp. 1943 § 6294-128.]

Severability—1982 c 182: See RCW 19.02.901.

Severability—1967 c 240: See note following RCW 43.23.010.

Master license system

existing licenses or permits registered under, when: RCW 19.02.810.

license expiration date: RCW 19.02.090.

Chapter 19.77

TRADEMARK REGISTRATION

Sections

- 19.77.030 Application for registration.
- 19.77.050 Duration of certificate—Renewal.
- 19.77.060 Assignment of trademark, registration, or application.
- 19.77.090 Actions relating to registration—Service on secretary of state—Fees.
- 19.77.100 Cancellation at instance of person damaged.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

19.77.030 Application for registration. Subject to the limitations set forth in this chapter, any person who has adopted and is using a trademark in this state may file in the office of the secretary of state, on a form to be furnished by the secretary of state, an application for registration of that trademark setting forth, but not limited to, the following information:

- (1) The name and business address of the applicant, and, if the applicant is a corporation, its state of incorporation;
- (2) The particular goods or services in connection with which the trademark is used and the class in which such goods or services fall;
- (3) The manner in which the trademark is placed on or affixed to the goods or containers, or displayed in connection with such goods, or used in connection with the sale or advertising of the services;
- (4) The date when the trademark was first used with each of such goods or services anywhere and the date when it was first used with each of such goods or services in this state by the applicant or his predecessor in business;
- (5) A statement that the trademark is presently in use in this state by the applicant; and
- (6) A statement that the applicant believes himself to be the owner of the trademark and believes that no other person has the right to use such trademark in connection with the same or similar goods or services in this state

either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

A single application for registration of a trademark may specify all goods or services in a single class for which the trademark is actually being used, but may not specify goods or services in different classes.

The application shall be signed by the applicant individual, or by a member of the applicant firm, or by an officer of the applicant corporation, association, union or other organization.

The application shall be accompanied by three specimens or facsimiles of the trademark for at least one of the goods or services for which its registration is requested, and a filing fee of fifty dollars payable to the secretary of state. [1982 c 35 § 181; 1955 c 211 § 3.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

19.77.050 Duration of certificate—Renewal. Registration of a trademark hereunder shall be effective for a term of ten years from the date of registration. Upon application filed within six months prior to the expiration of such term, on a form to be furnished by the secretary of state requiring all the allegations of an application for original registration, the registration may be renewed for successive terms of ten years as to the goods or services for which the trademark is still in use in this state. A renewal fee of fifty dollars, payable to the secretary of state, shall accompany each application for renewal of the registration.

The secretary of state shall notify registrants of trademarks hereunder or their agents for service of record with the secretary of state of the necessity of renewal within the year, but not less than six months, next preceding the expiration of the unexpired original or renewed term by writing to the last known address of the registrants or their agents according to the files of the secretary of state.

Any registration in force on September 1, 1955 shall expire five years from the date of the registration or one year after September 1, 1955, whichever date is later, and may be renewed as provided for renewing registrations under this chapter. A separate renewal application is required for goods in each class.

The secretary of state shall, within six months after September 1, 1955, notify all registrants of trademarks under previous acts of the date of expiration of their registrations by writing to the last known address of the registrants according to the files of the secretary of state, unless such registrations have been renewed in accordance with the provisions of this chapter. [1982 c 35 § 182; 1955 c 211 § 5.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

19.77.060 Assignment of trademark, registration, or application. Any trademark and its registration or application for registration hereunder shall be assignable with the good will of the business in which the trademark is used, or with that part of the good will of the business

connected with the use of and symbolized by the trademark. An assignment by an instrument in writing duly executed and acknowledged, or the designation of a legal representative, successor, or agent for service shall be recorded by the secretary of state on request when accompanied by a fee of ten dollars payable to the secretary of state. On request, upon recording of the assignment and payment of a further fee of five dollars, the secretary of state shall issue in the name of the assignee a new certificate for the remainder of the unexpired original or renewal term of the registration. An assignment of any registration or application for registration under this chapter shall be void as against any subsequent purchaser for a valuable consideration without notice, unless it is recorded with the secretary of state within three months after the date thereof or prior to such subsequent purchase. [1982 c 35 § 183; 1955 c 211 § 6.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

19.77.090 Actions relating to registration—Service on secretary of state—Fees. The secretary of state shall be the agent for service of process in any action relating to the registration of any registrant who is at the time of such service a nonresident or a foreign firm, corporation, association, union, or other organization without a resident of this state designated as the registrant's agent for service of record with the secretary of state, or who cannot be found in this state, and service of process, pleadings and papers in such action made upon the secretary of state shall be held as due and sufficient process upon the registrant. The secretary of state shall charge and collect a fee of twenty-five dollars at the time of any service of process upon the secretary of state under this section. The fee may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action. The fee shall be deposited in the secretary of state's revolving fund. [1982 c 35 § 184; 1955 c 211 § 9.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

19.77.100 Cancellation at instance of person damaged. Any person who believes he will be damaged by a registration of a trademark by the secretary of state may request cancellation of such registration by filing with the secretary of state in duplicate a verified petition setting forth the facts in support of such request, accompanied by a fee of fifty dollars payable to the revolving fund of the secretary of state. To each copy of said petition for cancellation there shall be attached a copy of each of the trademarks or trade names, or the personal name, portrait, or signature, of the petitioner, or other exhibits of like character relied on in the petition. Thereafter the secretary of state shall mail to the registrant or his agent for service of record with the secretary

of state a copy of said petition, addressed to the last known address of the registrant or such agent according to the files of the secretary of state, accompanied by a notice that said registrant may, within twenty days if the registrant is a resident of the state of Washington, or within sixty days if the registrant is a nonresident of the state of Washington, file in duplicate a verified answer to said petition. Thereafter the secretary of state shall forward a copy of said answer to said petitioner, accompanied by a notice that said petitioner may, within a specified time, not less than twenty days, file in duplicate a verified statement as to any further facts which are pertinent to issues raised by said answer, and the secretary of state shall in like manner forward a copy thereof to said registrant or such agent. The secretary of state shall then fix a hearing date not less than thirty days from the last day that the petitioner may file a statement of further facts. Written notice of such hearing shall be served on the parties by the secretary of state not less than fifteen days before the hearing in the same manner as the petition and answer were forwarded. Additional relevant testimony or other evidence may be introduced by the parties, and the secretary of state may subpoena such witnesses as he deems necessary. The parties shall have the right to be represented by counsel. On conclusion of the hearing the secretary of state shall grant or deny the petitioner's request for cancellation of the registration as the facts shall warrant and shall send a copy of his decision to the petitioner and to the registrant or such agent. If the secretary of state finds that the trademark should not have been registered, or is in violation of the common law rights of the petitioner, or if the secretary of state receives no answer from the registrant within the time limits specified hereinabove, he shall cancel said registration from the register, unless a petition for review of such decision is filed as provided hereinafter.

Either the petitioner or the registrant may, within sixty days after mailing of the copy of the decision by the secretary of state, file in the superior court of the state of Washington for Thurston county, and mail to the secretary of state and the other party or such agent at his last known address according to the files of the secretary of state, a petition for review of the decision of the secretary of state. The court shall review such decision on the basis of the record before the secretary of state for the purpose of determining the reasonableness and lawfulness of such decision and, subject to the right of appeal to the supreme court or the court of appeals of the state, the decree of the superior court shall be binding upon the secretary of state with respect to the granting or denial of the petitioner's request for cancellation. In any such petition for review the secretary of state shall be a necessary party, and the petitioner for cancellation and the registrant shall be proper parties. [1982 c 35 § 185; 1971 c 81 § 65; 1955 c 211 § 10.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 19.85
REGULATORY FAIRNESS ACT

Sections

19.85.010	Legislative declaration, intent—Short title.
19.85.020	Definitions.
19.85.030	Agency duties and options when adopting rule affecting industry and businesses therein.
19.85.040	Small business economic impact statement—Purpose—Contents.
19.85.050	Agency plan to review all rules affecting industry and businesses therein—Scope—Factors applicable upon rule review—Annual list of rules to be reviewed.
19.85.900	Severability—1982 c 6.

19.85.010 Legislative declaration, intent—Short title. The legislature finds that small businesses in the state of Washington have in the past been subjected to rules adopted by agencies, departments, and instrumentalities of the state government which have placed a proportionately higher burden on the small business community in Washington state. The legislature also finds that such proportionately higher burdens placed on small businesses have reduced competition, reduced employment, reduced new employment opportunities, reduced innovation, and threatened the very existence of some small businesses. Therefore, it is the intent of the legislature that rules affecting the business community shall not place proportionately higher burdens on small businesses. The legislature therefore enacts this Regulatory Fairness Act to minimize such proportionately higher impacts of rules on small businesses in the future. [1982 c 6 § 1.]

19.85.020 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply through this chapter.

(1) "Small business" has the meaning given in RCW 43.31.920.

(2) "Small business economic impact statement" means a statement meeting the requirements of RCW 19.85.040 prepared by a state agency pursuant to RCW 19.85.030.

(3) "Industry" means all of the businesses in this state in any one three-digit standard industrial classification as published by the United States department of commerce. [1982 c 6 § 2.]

19.85.030 Agency duties and options when adopting rule affecting industry and businesses therein. In the adoption of any rule pursuant to RCW 34.04.025 which will have an economic impact on more than twenty percent of all industries, or more than ten percent of any one industry, the adopting agency:

(1) Shall reduce the economic impact of the rule on small business by doing one or more of the following when it is legal and feasible in meeting the stated objective of the statutes which are the basis of the proposed rule:

(a) Establish differing compliance or reporting requirements or timetables for small businesses;

(b) Clarify, consolidate, or simplify the compliance and reporting requirements under the rule for small businesses;

(c) Establish performance rather than design standards;

(d) Exempt small businesses from any or all requirements of the rule;

(2) Shall prepare a small business economic impact statement in accordance with RCW 19.85.040 and file such statement with the code reviser along with the notice required under RCW 34.04.025;

(3) May request from the office of small business available statistics which the agency can use in the preparation of the small business economic impact statement. [1982 c 6 § 3.]

Office of small business: RCW 43.31.925 and 43.31.930.

19.85.040 Small business economic impact statement—Purpose—Contents. A small business economic impact statement shall analyze the costs of compliance for businesses required to comply with the provisions of a rule adopted pursuant to RCW 34.04.025, including costs of equipment, supplies, labor, and increased administrative costs, and compare to the greatest extent possible the cost of compliance for small business with the cost of compliance for the ten percent of firms which are the largest businesses required to comply with the proposed new or amendatory rules. The small business economic impact statement shall use one or more of the following as a basis for comparing costs:

(1) Cost per employee;

(2) Cost per hour of labor;

(3) Cost per one hundred dollars of sales;

(4) Any combination of (1), (2), or (3). [1982 c 6 § 4.]

Washington State Register—Created—Publication period—Contents: RCW 34.08.020.

19.85.050 Agency plan to review all rules affecting industry and businesses therein—Scope—Factors applicable upon rule review—Annual list of rules to be reviewed. (1) Within one year after June 10, 1982, each agency shall publish and deliver to the office of financial management and to all persons who make requests of the agency for a copy of a plan to periodically review all rules then in effect and which have been issued by the agency which have an economic impact on more than twenty percent of all industries or ten percent of the businesses in any one industry. Such plan may be amended by the agency at any time by publishing a revision to the review plan and delivering such revised plan to the office of financial management and to all persons who make requests of the agency for the plan. The purpose of the review is to determine whether such rules should be continued without change or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize the economic impact on small businesses as described by this chapter. The plan shall provide for the review of all such agency rules in effect on June 10, 1982, within ten years of that date.

(2) In reviewing rules to minimize any significant economic impact of the rule on small businesses as described by this chapter, and in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors:

- (a) The continued need for the rule;
- (b) The nature of complaints or comments received concerning the rule from the public;
- (c) The complexity of the rule;
- (d) The extent to which the rule overlaps, duplicates, or conflicts with other state or federal rules, and, to the extent feasible, with local governmental rules; and
- (e) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the rule.

(3) Each year each agency shall publish a list of rules which are to be reviewed pursuant to this section during the next twelve months and deliver a copy of the list to the office of financial management and all persons who make requests of the agency for the list. The list shall include a brief description of the legal basis for each rule as described by RCW 34.04.026(1)(a) or 34.04.026(1)(b), and shall invite public comment upon the rule. [1982 c 6 § 5.]

19.85.900 Severability—1982 c 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 6 § 11.]

Chapter 19.86

UNFAIR BUSINESS PRACTICES—CONSUMER PROTECTION

Sections

19.86.110 Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—Use—Penalty.

19.86.110 Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—Use—Penalty. (1) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate, which he believes to be relevant to the subject matter of an investigation, answer written interrogatories, or give oral testimony of a possible violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or (b) may have knowledge of any information which the attorney general believes relevant to the subject matter of such an investigation, he may, prior to the institution of a civil proceeding thereon, execute in writing and cause

to be served upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of such demands pertaining to such documentary material or information: *Provided*, That this section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) If the demand is for the production of documentary material, describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material is to be produced, the answers to written interrogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a request for deposition upon oral examination issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer or managing agent of the person to be served; or

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if said person has no place of business in this state, to his principal office or place of business.

(5)(a) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken

in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude from the place where the examination is held all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony: *Provided*, That, under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced such material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of such person. The attorney general or any assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he determines necessary in the enforcement of this chapter, including presentation before any court: *Provided*, That any such material, answers to written interrogatories, or transcripts of oral testimony which contain trade secrets shall not be presented except with the approval of the court in which action is pending after adequate notice to the person furnishing such material, answers to written interrogatories, or oral testimony.

(7) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1), stating good cause, may be filed in the superior court for Thurston county, or in such other county where the parties reside. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by the provisions of this section, and all other petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(8) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to written interrogatories, or oral testimony duly served upon him under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file, in the trial court of general jurisdiction of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his principal place of business, or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the trial court of general jurisdiction of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect the provisions of this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions. [1982 c 137 § 1; 1970 ex.s. c 26 § 4; 1961 c 216 § 11.]

Rules of court: See Rules for Superior Court.

Chapter 19.91

UNFAIR CIGARETTE SALES BELOW COST ACT
(Formerly: Unfair cigarette sales act)

Sections	
19.91.010	Definitions (as amended by 1982 c 182).
19.91.010	Definitions (as amended by 1982 1st ex.s. c 16).
19.91.130	Wholesalers, retailers licenses—Issuance— Duration.
19.91.140	Wholesaler license fee—Additional license for each additional place of business—Display of license— Wholesaler's bond (as amended by 1982 c 182).
19.91.140	Wholesaler license fee—Display of license— Wholesaler's bond (as amended by 1982 1st ex.s. c 16).
19.91.150	Retailer license or renewal fee—Vending machine or renewal fee (as amended by 1982 c 182).
19.91.150	Retailer license fee—Vending machine fee (as amended by 1982 1st ex.s. c 16).
19.91.180	Enforcement and administration of chapter— Rules—Revocation, suspension, reinstatement of li- cense, procedure—Appeals.
19.91.910	Short title.

19.91.010 Definitions (as amended by 1982 c 182). When used in this chapter, the following words and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, municipal corporation, or other political subdivision of this state, trust, receiver, trustee, fiduciary and conservator.
- (2) "Wholesaler" includes any person who:
 - (a) Purchases cigarettes directly from the manufacturer, or
 - (b) Purchases cigarettes from any other person who purchases from or through the manufacturer, for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only, or
 - (c) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing contained herein shall prevent a person from qualifying in different capacities as both a "wholesaler" and "retailer" under the applicable provisions of this chapter.

(3) "Retailer" means and includes any person who operates a store, stand, booth, concession, or vending machine for the purpose of making sales of cigarettes at retail.

(4) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(5) "Sale" means any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatsoever.

(6) "Sell at wholesale", "sale at wholesale" and "wholesale" sales mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

(7) "Sell at retail", "sale at retail" and "retail sales" mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

(8) "Basic cost of cigarettes" means the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower, less all trade discounts and customary discounts for cash, to which shall be added the full face value of any stamps which may be required by any cigarette tax act of this state and by ordinance of any municipality thereof, now in effect or hereafter enacted, if not already included by the manufacturer in his list price.

(9) (a) The term "cost to the wholesaler" means the "basic cost of cigarettes" to the wholesaler plus the "cost of doing business by the wholesaler" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said wholesalers "cost of doing business" bears to said wholesalers dollar volume per annum, and said "cost of doing business by the wholesaler" shall be evidenced and determined by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling cost, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising.

(b) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be four percent of the "basic cost of cigarettes" to the wholesaler, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost, shall be deemed to be one-half of one percent of the "basic cost of cigarettes" to the wholesaler.

(10) (a) The term "cost to the retailer" means the "basic cost of cigarettes" to the retailer plus the "cost of doing business by the retailer" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said retailers "cost of doing business" bears to said retailers dollar volume per annum, and said "cost of doing business by the retailer" shall be evidenced and determined by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising: *Provided*, That any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, discounts ordinarily allowed upon purchases by a wholesaler shall, in determining "cost to the retailer", pursuant to this subdivision, add the "cost of doing business by the wholesaler," as defined in subdivision (9) of this section, to the "basic cost of cigarettes" to said retailer, as well as the "cost of doing business by the retailer".

(b) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the "cost of doing business by the retailer"

shall be presumed to be ten percent of the "basic cost of cigarettes" to the retailer.

(c) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business by the retailer", who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be ten percent of the sum of the "basic cost of cigarettes" and the "cost of doing business by the wholesaler".

(11) "Business day" means any day other than a Sunday or a legal holiday.

(12) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 34; 1979 c 107 § 1; 1967 ex.s. c 26 § 20; 1957 c 286 § 1.]

Severability—1982 c 182: See RCW 19.02.901.

19.91.010 Definitions (as amended by 1982 1st ex.s. c 16). When used in this chapter, the following words and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, municipal corporation, or other political subdivision of this state, trust, receiver, trustee, fiduciary and conservator.

(2) "Wholesaler" includes any person who:

(a) Purchases cigarettes directly from the manufacturer, or

(b) Purchases cigarettes from any other person who purchases from or through the manufacturer, for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only, or

(c) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing contained herein shall prevent a person from qualifying in different capacities as both a "wholesaler" and "retailer" under the applicable provisions of this chapter.

(3) "Retailer" means and includes any person who operates a store, stand, booth, concession, or vending machine for the purpose of making sales of cigarettes at retail.

(4) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(5) "Sale" means any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatsoever.

(6) "Sell at wholesale", "sale at wholesale" and "wholesale" sales mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

(7) "Sell at retail", "sale at retail" and "retail sales" mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

(8) "Basic cost of cigarettes" means the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower, less all trade discounts except customary discounts for cash, to which shall be added the full face value of any stamps which may be required by any cigarette tax act of this state and by ordinance of any municipality thereof, now in effect or hereafter enacted, if not already included by the manufacturer in his list price.

(9) (a) The term "cost to the wholesaler" means the "basic cost of cigarettes" to the wholesaler plus the "cost of doing business by the wholesaler" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said wholesalers "cost of doing business" bears to said wholesalers dollar volume for all products sold by the wholesaler per annum, and said "cost of doing business by the wholesaler" shall be evidenced and determined by the standards

and methods of accounting regularly employed by him for the purpose of federal income tax reporting for the total operation of his establishment in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling cost, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising, expressed as a percentage and applied to the "basic cost of cigarettes". Any fractional part of a cent amounting to one-tenth of one cent or more in cost to the wholesaler per carton of ten packages of cigarettes shall be rounded off to the next higher cent.

(b) For the purposes of this chapter the "cost of doing business" may not be computed using a percentage less than the overall percentage shown in subsection (9)(a) of this section or in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be four percent of the "basic cost of cigarettes" to the wholesaler, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost, shall be deemed to be one-half of one percent of the "basic cost of cigarettes" to the wholesaler.

(10) (a) The term "cost to the retailer" means the "basic cost of cigarettes" to the retailer plus the "cost of doing business by the retailer" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said retailers "cost of doing business" bears to said retailers dollar volume per annum, and said "cost of doing business by the retailer" shall be evidenced and determined by the standards and methods of accounting regularly employed by him for the purpose of federal income tax reporting for the total operation of his establishment in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising, expressed as a percentage and applied to the "basic cost of cigarettes": *Provided*, That any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, discounts ordinarily allowed upon purchases by a wholesaler shall, in determining "cost to the retailer", pursuant to this subdivision, add the "cost of doing business by the wholesaler," as defined in subdivision (9) of this section, to the "basic cost of cigarettes" to said retailer, as well as the "cost of doing business by the retailer". Any fractional part of a cent amounting to one-tenth of one cent or more in cost to the retailer per carton of ten packages of cigarettes shall be rounded off to the next higher cent.

(b) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the "cost of doing business by the retailer" shall be presumed to be ten percent of the "basic cost of cigarettes" to the retailer.

(c) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business by the retailer", who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be ten percent of the sum of the "basic cost of cigarettes" and the "cost of doing business by the wholesaler".

(11) "Business day" means any day other than a Sunday or a legal holiday. [1982 1st ex.s. c 16 § 1; 1979 c 107 § 1; 1967 ex.s. c 26 § 20; 1957 c 286 § 1.]

Reviser's note: RCW 19.91.010 was amended twice during the 1982 sessions of the legislature, each without reference to the other.

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

Effective date—1967 ex.s. c 26: See note following RCW 82.01.050.

Tax on cigarettes

for school bonds: RCW 28A.47.440.
generally: Chapter 82.24 RCW.

19.91.130 Wholesalers, retailers licenses—Issuance—Duration. The licenses issuable under this chapter shall be as follows:

- (1) Wholesalers license.
- (2) Retailers license.

Application for the licenses shall be made through the master license system. The department of revenue shall make rules regarding the regulation of the licenses. The department of revenue may refrain from the issuance of any license under this chapter, where it has reasonable cause to believe that the applicant has wilfully withheld information requested of him for the purpose of determining the eligibility of the applicant to receive a license, or where it has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. Each such license shall expire on the master license expiration date, and each such license shall be continued annually upon the conditions that the licensee shall have paid the required fee and complied with all the provisions of this chapter and the rules and regulations of the department of revenue made pursuant thereto. [1982 c 182 § 35; 1975 1st ex.s. c 278 § 14; 1957 c 286 § 13.]

Severability—1982 c 182: See RCW 19.02.901.

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

Master license system

defined: RCW 19.91.010(12).

existing licenses or permits registered under, when: RCW 19.02.810.

license expiration date: RCW 19.02.090.

to include additional licenses: RCW 19.02.110.

19.91.140 Wholesaler license fee—Additional license for each additional place of business—Display of license—Wholesaler's bond (as amended by 1982 c 182). A fee of three hundred dollars shall accompany each wholesaler's license application or license renewal application. If a wholesaler sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license with a license fee of twenty-five dollars shall be required for each additional place of business. Each license, or certificate thereof, and such other evidence of license as the department of revenue shall require, shall be exhibited in the place of business for which it is issued and in such manner as is prescribed for the display of a master license. The department of revenue shall require each licensed wholesaler to file with him a bond in an amount not less than one thousand dollars to guarantee the proper performance of his duties and the discharge of his liabilities under this chapter. The bond shall be executed by such licensed wholesaler as principal, and by a corporation approved by the department of revenue and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license. [1982 c 182 § 36; 1975 1st ex.s. c 278 § 15; 1957 c 286 § 14.]

Severability—1982 c 182: See RCW 19.02.901.

Master license system—Existing licenses or permits registered under, when: RCW 19.02.810.

19.91.140 Wholesaler license fee—Display of license—Wholesaler's bond (as amended by 1982 1st ex.s. c 16). For each license issued to a wholesaler, and for each continuance thereof, there shall be paid to the department of revenue a fee of six hundred fifty dollars. If a wholesaler sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license with a license fee of one hundred fifteen dollars shall be required for each additional place of business. Each license, or certificate thereof, and such other evidence of license as the department of revenue shall require, shall be exhibited in the place of business for which it is issued

and in such manner as may be prescribed by the department of revenue. The department of revenue shall require each licensed wholesaler to file with him a bond in an amount not less than one thousand dollars to guarantee the proper performance of his duties and the discharge of his liabilities under this chapter. The bond shall be executed by such licensed wholesaler as principal, and by a corporation approved by the department of revenue and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license. [1982 1st ex.s. c 16 § 2; 1975 1st ex.s. c 278 § 15; 1957 c 286 § 14.]

Reviser's note: RCW 19.91.140 was amended twice during the 1982 sessions of the legislature, each without reference to the other.

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

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

19.91.150 Retailer license or renewal fee—Vending machine or renewal fee (as amended by 1982 c 182). A fee of five dollars shall accompany each retailer's license application or license renewal application. A fee of one additional dollar for each vending machine shall accompany each application or renewal for a license issued to a retail dealer operating a cigarette vending machine. [1982 c 182 § 37; 1975 1st ex.s. c 278 § 16; 1957 c 286 § 15.]

Severability—1982 c 182: See RCW 19.02.901.

Master license system—Existing licenses or permits registered under, when: RCW 19.02.810.

19.91.150 Retailer license fee—Vending machine fee (as amended by 1982 1st ex.s. c 16). For each license issued to a retail dealer and for each continuance thereof, there shall be paid to the department of revenue a fee of ten dollars. For each license issued to a retail dealer operating a cigarette vending machine, and for each continuance thereof, there shall be paid to the department of revenue a fee of one additional dollar for each vending machine. [1982 1st ex.s. c 16 § 3; 1975 1st ex.s. c 278 § 16; 1957 c 286 § 15.]

Reviser's note: RCW 19.91.150 was amended twice during the 1982 sessions of the legislature, each without reference to the other.

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

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

19.91.180 Enforcement and administration of chapter—Rules—Revocation, suspension, reinstatement of license, procedure—Appeals. (1) In addition to the penalties and rights imposed and set forth in RCW 19.91.020 and 19.91.110, the department of revenue may enforce the provisions of this chapter. The department of revenue shall have the power to adopt, amend and repeal rules and regulations necessary to enforce and administer the provisions of this chapter. The department of revenue is given full power and authority to revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state of Washington upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee or permittee to comply with any of the provisions of this chapter.

(2) No license or licenses shall be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by said department of revenue. The said department of revenue, upon a finding by same, that the licensee has failed to comply with any provision of this chapter or any rule or regulation promulgated

thereunder, shall, in the case of the first offender, suspend the license or licenses of the said licensee for a period of not less than thirty consecutive business days, and, in the case of a second or plural offender, shall suspend said license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the said department of revenue finds the offender has been guilty of wilful and persistent violations, it may revoke said person's license or licenses.

(3) Any person whose license or licenses have been so revoked may apply to the department of revenue at the expiration of one year for a reinstatement of his license or licenses. Such license or licenses may be reinstated by the department of revenue if it shall appear to the satisfaction of said department of revenue that the licensee will comply with the provisions of this chapter and the rules and regulations promulgated thereunder.

(4) No person whose license has been suspended or revoked shall sell cigarettes or permit cigarettes to be sold during the period of such suspension or revocation on the premises occupied by him or upon other premises controlled by him or others or in any other manner or form whatever.

(5) Any determination and order by the department of revenue, and any order of suspension or revocation by the department of revenue of the license or licenses, or refusal to reinstate a license or licenses after revocation shall be reviewable by an appeal to the superior court of Thurston county in and for the state of Washington. Said superior court shall review the order or ruling of the department of revenue and may hear the matter de novo, having due regard to the provisions of this chapter, and the duties imposed upon the department of revenue. Said review by the superior court, and any order entered thereon by said superior court, shall be appealable under and by virtue of the procedural law of this state. [1982 1st ex.s. c 16 § 4; 1975 1st ex.s. c 278 § 17; 1957 c 286 § 18.]

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

19.91.910 Short title. This chapter may be known and cited as the unfair cigarette sales below cost act. [1982 1st ex.s. c 16 § 5; 1957 c 286 § 21.]

Chapter 19.105 CAMPING CLUBS

Sections

19.105.010	through 19.105.270 Repealed.
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19.105.310	Unlawful to offer or sell contract unless contract registered—Exemptions.
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19.105.330	Registration—Effective, when.
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- 19.105.540 Administrative procedure act application.
- 19.105.550 Administration.
- 19.105.900 Repealed.
- 19.105.910 Construction—Chapter as cumulative and nonexclusive.
- 19.105.920 Severability—1982 c 69.
- 19.105.930 Effective date—1982 c 69.

19.105.010 through 19.105.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.105.300 Definitions. As used in this chapter, unless the context clearly requires otherwise:

(1) "Camping club" means any enterprise, other than one that is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1954, as amended, that has as its primary purpose camping or outdoor recreation and includes or will include camping sites.

(2) "Camping club contract" means an agreement evidencing a purchaser's title to, interest in, or right or license to use for more than thirty days the camping or outdoor recreation facilities of a camping club.

(3) "Camping site" means a space designed and promoted for the purpose of locating a trailer, tent, tent trailer, pick-up camper, or other similar device used for land-based portable housing.

(4) "Purchaser" means a person who enters into a camping club contract and thereby obtains the right to use the camping or outdoor recreation facilities of a camping club.

(5) "Person" means any individual, corporation, partnership, trust, association, or other organization other than a government or a subdivision thereof.

(6) "Director" means the director of licensing.

(7) "Camping club operator" means any person who establishes, promotes, owns, or operates a camping club.

(8) "Advertisement" means any written, printed, audio, or visual offer by general solicitation.

(9) "Offer" means any solicitation reasonably designed to result in the entering into of a camping club contract.

(10) "Sale" or "sell" means entering into, or other disposition, of a camping club contract for value, but the term value does not include a reasonable fee to offset the ministerial costs of transfer of a camping club contract.

(11) "Salesperson" means any individual, other than a camping club operator, who is engaged in obtaining commitments of persons to enter into camping club contracts by making a direct sales presentation to the persons, but does not include individuals engaged in the referral of persons without making a direct sales presentation to the persons.

(12) "Affiliate" means any person who, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the person specified. [1982 c 69 § 1.]

19.105.310 Unlawful to offer or sell contract unless contract registered—Exemptions. Except in transactions exempt under RCW 19.105.320 (2) or (3), it is unlawful for any person to offer or sell a camping club contract in this state unless the camping club contract is registered under this chapter. [1982 c 69 § 2.]

19.105.320 Registration—Filings required upon application for—Transactions exempt from—Director's rules or orders. (1) To apply for registration an applicant shall file with the director:

(a) An application for registration on such a form as may be prescribed by the director. The director may, by rule or order, prescribe the contents of the application to include information (including financial statements) reasonably necessary for the director to determine if the requirements of this chapter have been met, whether any of the events specified in RCW 19.105.380(7) have occurred, and what conditions, if any, should be imposed under RCW 19.105.340 or 19.105.350 in connection with the registration;

(b) Written disclosures, in any format the director is satisfied accurately and clearly communicates the required information, which includes:

(i) The name and address of the camping club operator and any material affiliate;

(ii) A brief description of the camping club operator's experience in the camping club business;

(iii) A brief description of the nature of the purchaser's title to, interest in, or right or license to use the camping club property or facilities and, if the purchaser will obtain title to specified real property, the legal description of the property;

(iv) The location and a brief description of the significant facilities and recreation services then available for use by purchasers and those which are represented to purchasers as being planned, together with a brief description of any significant facilities or recreation services that are or will be available to nonpurchasers and the price to nonpurchasers therefor;

(v) A brief description of the camping club's ownership of or other right to use the camping club properties or facilities represented to be available for use by purchasers, together with a brief description of any material encumbrance, the duration of any lease, real estate contract, license, franchise, reciprocal agreement, or other agreement entitling the camping club operator to use the property, and any material provisions of the agreements which restrict a purchaser's use of the property;

(vi) A brief statement or summary of what required material land use permits have not been obtained for each camping club property or facility represented to purchasers as planned;

(vii) A summary or copy of the articles, by-laws, rules, restrictions, or covenants regulating the purchaser's use of each property, the facilities located on each property, and any recreation services provided, including a statement of whether and how the articles, by-laws, rules, restrictions, or covenants may be changed;

(viii) A brief description of all payments of a purchaser under a camping club contract, including initial fees and any further fees, charges, or assessments, together with any provisions for changing the payments;

(ix) A description of any restraints on the transfer of camping club contracts;

(x) A brief description of the policies relating to the availability of camping sites and whether reservations are required;

(xi) A brief description of the camping club operator's right to change or withdraw from use all or a portion of the camping club properties or facilities and the extent to which the operator is obligated to replace camping club facilities or properties withdrawn;

(xii) A brief description of any grounds for forfeiture of a purchaser's camping club contract; and

(xiii) A copy of the camping club contract form;

(c) The prescribed registration fee;

(d) A statement of the total number of camping club contracts then in effect, both within and without this state; and a statement of the total number of camping club contracts intended to be sold, both within and without this state, together with a commitment that the total number will not be exceeded unless disclosed by post-effective amendment to the registration as provided in RCW 19.105.420; and

(e) Any other material information the director may, by rule or order, require for the protection of the purchasers.

(2) The following transactions are exempt from registration:

(a) An offer, sale, or transfer by any one person of not more than one camping club contract for any given camping club in any twelve-month period, but any agent for the person is not exempt from registration as a

camping club salesperson under this chapter if he receives a commission or similar payment for the sale or transfer;

(b) An offer or sale by a government or governmental agency; and

(c) A bona fide pledge of a camping club contract.

(3) The director may, by rule or order, exempt any person from any or all requirements of this chapter if the director finds the requirements unnecessary for the protection of purchasers and the offering of camping club contracts is essentially noncommercial. [1982 c 69 § 3.]

Administrative procedure act application: RCW 19.105.540.

19.105.330 Registration—Effective, when. Unless an order denying effectiveness under RCW 19.105.380 is in effect, or unless declared effective by order of the director prior thereto, the application for registration shall automatically become effective upon the expiration of the fifteenth full business day following filing with the director, but an applicant may consent to the delay of effectiveness until such time as the director may by order declare registration effective. [1982 c 69 § 4.]

19.105.340 Impounding proceeds from contract sales, when—Conditional release—Return to purchasers, when. If the director finds that the applicant or registrant does not have adequate financial and other resources so that there is a reasonable likelihood that it will not be able to provide or continue to provide the anticipated properties, facilities, or recreation services represented to purchasers, the director shall require impounding the funds from camping club contract sales until sufficient funds have been impounded to alleviate the inadequacy. The director may, if he finds it reasonable and necessary to the business operations of the applicant or registrant and not inconsistent with the protection of purchasers or owners of camping club contracts, provide for release to the applicant or registrant of all or a portion of the impounded funds. The director may take appropriate measures to assure that the impounded funds will be applied as contemplated by the director. If the funds are not released from impound within a reasonable time, the funds remaining in impound shall be returned to the purchasers upon the order of the director. [1982 c 69 § 5.]

19.105.350 Reserve fund, director may require by order, when. If the purchaser will own or acquire title to specified real property or improvements to be acquired by the camping club, the director may by order require to the extent necessary to protect the interests of the purchasers or owners of camping club contracts, that an appropriate portion of the proceeds paid under camping club contracts be set aside in a separate reserve fund to be applied toward the purchase price of the real property or improvements. [1982 c 69 § 6.]

19.105.360 Sales literature, contract form, disclosure supplements—Filed, when. The camping club operator shall file with the director at least five business days

prior to the first use thereof in the state of Washington (1) the proposed text of all advertisements and sales promotion literature, (2) its proposed form of camping club contract, and (3) the text of any supplements to the written disclosures required to be furnished prospective purchasers under RCW 19.105.370: *Provided*, That if the text in lieu of definitive copies of any materials are filed, definitive copies shall be filed with the director within five business days following the date of first use of the materials. [1982 c 69 § 7.]

19.105.370 Purchaser to receive written disclosures, when—Exemptions. Except in a transaction exempt under RCW 19.105.320 (2) or (3), any person who sells a camping club contract in this state shall provide the prospective purchaser with the written disclosures required under RCW 19.105.320(1)(b) in a form that is materially accurate and complete before the prospective purchaser signs a camping club contract or gives any item of value for the purchase of a camping club contract. [1982 c 69 § 8.]

19.105.380 Registration or application—Denial, suspension or revocation by order, when—Fine, imposition, disposition—Notices, hearings, and findings—Summary orders, when. The effectiveness of an application or registration may by order be denied, suspended, or revoked or a fine of not more than one thousand dollars imposed by the director, if the director finds that the order is for the protection of purchasers or owners of camping club contracts and that:

(1) The camping club operator's advertising or sales techniques or trade practices have been or are deceptive, false, or misleading;

(2) The camping club operator has failed to file copies of its advertisements or promotion literature or its camping club contract form under RCW 19.105.360;

(3) The camping club operator has failed to comply with any provision of this chapter or the rules adopted under this chapter that materially affect or would affect the rights of purchasers, prospective purchasers, or owners of camping club contracts or the administration of this chapter;

(4) The camping club operator is not financially responsible or has insufficient capital, as the director may find under RCW 19.105.340, to warrant its offering or selling camping club contracts;

(5) The camping club operator's offering of camping club contracts has worked or would work a fraud upon purchasers or owners of camping club contracts;

(6) The camping club operator's application or any amendment thereto is incomplete in any material respect;

(7) The camping club operator or any officer, director, or other affiliate of the camping club operator has been within the last five years convicted of any misdemeanor or felony involving theft, fraud, or dishonesty, has been enjoined from or had any civil penalty assessed for or found to have engaged in any violation of any act designed to protect consumers, or has been engaged in

dishonest practices in any industry involving sales to consumers;

(8) The camping club operator has represented or is representing to purchasers in connection with the offer or sale of a camping club contract that any camping club property, facility, camp site, or other development is planned without reasonable grounds to believe that the camping club property, facility, camp site, or other development will be completed within a reasonable time; or

(9) The camping club operator has withdrawn, or has the right to withdraw, from use all or any substantial camping or recreation portion of any camping club property devoted to camping or recreational activities, unless (a) adequate provision has been made to provide within a reasonable time thereafter a substitute property in the same general area that is at least as desirable for the purpose of camping and outdoor recreation, (b) the property is withdrawn because, despite good faith efforts by the camping club operator, a nonaffiliate of the camping club has exercised a right of withdrawal from use by the camping club (such as withdrawal following expiration of a lease of the property to the camping club) and the terms of the withdrawal right have been disclosed in writing to all purchasers at or prior to the time of any sales of camping club contracts after the camping club has represented to purchasers that the property is or will be available for camping or recreation purposes, (c) the specific date upon which the withdrawal becomes effective has been disclosed in writing to all purchasers at or prior to the time of any sales of camping club contracts after the camping club has represented to purchasers that the property is or will be available for camping or recreation purposes, (d) the rights of the purchaser or owner of the camping club contract under the express terms of the camping club contract have expired, or have been specifically limited, upon the lapse of a stated or determinable period of time, or (e) the director by order has found that the withdrawal is not otherwise inconsistent with the protection of purchasers or owners of camping club contracts.

No order may be entered under this section without appropriate prior notice to the applicant or registrant of opportunity for a hearing and written findings of fact and conclusions of law, except that the director may by order summarily deny an application for registration under any of the above subsections and may summarily suspend or revoke a registration under subsections (1), (3), (5), or (6) of this section. No fine may be imposed by summary order or by reason of violation of subsection (4) or (7) of this section. If no hearing is requested within fifteen days of receipt of notice of opportunity for a hearing, and none is ordered by the director, the director may enter the order. Upon entry of a summary order, the applicant or registrant shall have an opportunity within ten days entry of the summary order to appear before the director and show cause why the summary order should not remain in effect. If good cause is shown, the director shall vacate the summary order. If good cause is not shown, the summary order shall remain in effect and the director shall give notice of opportunity for hearing and within fifteen days of the

receipt of a written request the matter shall be set down for hearing within a time that is reasonable under the circumstances. Any fine imposed under this section shall be deposited in the general fund of the state treasurer. [1982 c 69 § 9.]

19.105.390 Club contracts—Purchaser's cancellation of—Notice, when—Statement of right to cancel. Any camping club contract may be canceled at the option of the purchaser, if the purchaser sends notice of the cancellation by certified mail (return receipt requested) to the camping club operator and if the notice is posted not later than midnight of the third business day following the day on which the contract is signed. In addition to this cancellation right, any purchaser who signs a camping club contract without inspecting a camping club property or facility with camping sites or proposed camping sites may by written notice by certified mail (return receipt requested) cancel the camping club contract by posting the notice not later than midnight of the sixth business day following the day on which the contract is signed if the purchaser makes such an inspection before sending the notice. In computing the number of business days, the day on which the contract was signed shall not be included as a "business day," nor shall Saturday, Sunday, or legal holidays be included. The camping club operator shall promptly refund any money or other consideration paid by the purchaser upon receipt of timely notice of cancellation by the purchaser.

Every camping club contract shall include the following statement in at least ten point type immediately prior to the space for the purchaser's signature:

"Purchaser's right to cancel: You may cancel this contract without any cancellation fee or other penalty by sending notice of cancellation by certified mail, return receipt requested, to ----- (insert name of camping club operator). The notice must be postmarked by midnight of the third business day following the day on which the contract is signed. In computing the three business days, the day on which the contract is signed shall not be included as a "business day," nor shall Saturday, Sunday, or legal holidays be included."

If the purchaser has not inspected a camping club property or facility at which camping club sites are located or planned, the notice must contain the following additional language:

"If you sign this contract without having first inspected a property at which camping sites are located or planned, you may also cancel this contract by giving this notice within six business days following the day on which you signed if you inspect such a property prior to sending the notice." [1982 c 69 § 10.]

19.105.400 Club contracts—Voidable, when—Estoppel. Any camping club contract entered into in violation of RCW 19.105.310 or 19.105.370 may be voided at the option of the purchaser, but no suit under this section may be brought after two years from the date the contract is signed. [1982 c 69 § 11.]

19.105.410 Registrations, renewals or amendments—Fees. Each application for registration or renewal shall be accompanied by a fee of three hundred twenty-five dollars.

Each application for amendment of the registration of a camping club's contracts shall be accompanied by a fee of one hundred dollars.

If registration of a camping club is conditioned upon establishing an impound under RCW 19.105.340, effectiveness of the camping club registration shall be conditioned upon the payment of an additional fee of one hundred dollars. If registration of a camping club is conditioned upon establishing a reserve under RCW 19.105.350, effectiveness of the camping club registration shall be conditioned upon the payment of an additional fee of one hundred dollars.

Each application for registration or renewal of an existing registration of a camping club salesperson shall be accompanied by a fee of thirty dollars. [1982 c 69 § 12.]

19.105.420 Club contracts—Registration, duration—Renewal, amendment—Renewal of prior permits. A registration of camping club contracts shall be effective for a period of one year and may, upon application, be renewed for successive periods of one year each. A camping club contract registration may be amended at any time to increase the number of camping club contracts registered, or for any other reason, by the filing of an amended application therefor, which amended application shall become effective in the manner provided by RCW 19.105.330. The written disclosures required to be furnished prospective purchasers under RCW 19.105.370 shall be supplemented in writing as necessary to keep the required information reasonably current, and the written supplements shall be filed with the director as provided in RCW 19.105.360. The foregoing notwithstanding, however, the camping club operator shall file an amendment to the application for registration disclosing any event which will have a material effect on the conduct of the operation of the camping club. The amendment shall be filed within thirty days following the event. The amendment shall be treated as an original application for registration, except that until the director has acted upon the amendment or until the amendment becomes effective under RCW 19.105.330 by lapse of time, the applicant's registration shall continue to be deemed effective for the purposes of RCW 19.105.310.

Any permit to sell camping club memberships issued prior to November 1, 1982, shall be deemed a camping club registration subject to the renewal provisions of this chapter upon the anniversary date of the issuance of the original permit. [1982 c 69 § 13.]

19.105.430 Unlawful to act as salesperson without registering—Exemptions. Unless the transaction is exempt under RCW 19.105.320 (2) or (3), it is unlawful for any person to act as a camping club salesperson in this state without first registering under this chapter as a salesperson. [1982 c 69 § 14.]

19.105.440 Registration as salesperson—Application, contents—Denial, suspension or revocation of registration or application by order, when—Notices, hearings and findings—Summary orders, when—Renewal of registration—Rules. (1) A salesperson may apply for registration by filing with the director an application which includes the following information:

(a) A statement whether or not the applicant within the past five years has been convicted of any misdemeanor or felony involving theft, fraud, or dishonesty or whether or not the applicant has been enjoined from, had any civil penalty assessed for, or been found to have engaged in any violation of any act designed to protect consumers; and

(b) A statement describing the applicant's employment history for the past five years and whether or not any termination of employment during the last five years was occasioned by any theft, fraud, or act of dishonesty.

(2) The director may by order deny, suspend, or revoke a salesperson's application for registration or the salesperson's registration if the director finds that the order is necessary for the protection of purchasers or owners of camping club contracts and the applicant or registrant within the past five years (a) has been convicted of any misdemeanor or felony involving theft, fraud, or dishonesty or has been enjoined from, had any civil penalty assessed for, or been found to have engaged in any violation of any act designed to protect consumers, (b) has violated any provision of this chapter, or (c) has engaged in unethical or dishonest practices in any industry involving sales to consumers.

No order may be entered under this section without appropriate prior notice to the applicant or registrant of opportunity for a hearing and written findings of fact and conclusions of law, except that the director may by order summarily deny an application for registration under this subsection. If no hearing is requested within fifteen days of receipt of notice of opportunity for a hearing, and none is ordered by the director, the director may enter the order. Upon entry of a summary order, the applicant shall have an opportunity within ten days of entry of the summary order to appear before the director and show cause why the summary order should not remain in effect. If good cause is shown, the director shall vacate the summary order. If good cause is not shown, the summary order shall remain in effect and the director shall give notice of opportunity for hearing and within fifteen days of the receipt of a written request the matter shall be set down for hearing within a time that is reasonable under the circumstances.

(3) The director may by rule require such further information or conditions for registration as a camping club salesperson as the director deems necessary to protect the interests of purchasers.

(4) Registration as a camping club salesperson shall be effective for a period of one year unless the director specifies otherwise. Registration as a camping club salesperson shall be renewed annually by the filing of a form prescribed by the director for that purpose. Unless an order denying effectiveness under subsection (2) of this section is in effect, or unless declared effective by

order of the director prior thereto, the application for registration or renewal shall automatically become effective upon the expiration of the fifteenth full business day following filing with the director, but an applicant or registrant may consent to the delay of effectiveness until such time as the director may by order declare registration or renewal effective. [1982 c 69 § 15.]

Administrative procedure act application: RCW 19.105.540.

19.105.450 Investigations—Scope—Publishing information. The director may make such public or private investigations or may make such requests for information, within or without this state, as he deems necessary to determine whether any registration should be granted, denied, or revoked or whether any person has violated or is about to violate any of the provisions of this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter or in prescribing of rules and forms under this chapter and may publish information concerning any violation of this chapter or any rule or order under this chapter. [1982 c 69 § 16.]

19.105.460 Investigations—Powers relating to—Proceedings for contempt. For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In the case of any person who disobeys any subpoena lawfully issued by the director, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, the superior court of any county or the judge thereof, on application by the director, and after satisfactory evidence of wilful disobedience, may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such a court on a refusal to testify therein. [1982 c 69 § 17.]

19.105.470 Cease and desist orders, when—Utilizing temporary order, injunction, restraining order or writ of mandamus. (1) Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter, any withdrawal of a camping club property in violation of RCW 19.105.380(9), or any rule or order under this chapter, the director may in his discretion issue an order directing the person to cease and desist from continuing the act or practice: *Provided*, That reasonable notice of and opportunity for a hearing shall be given: *Provided further*, That the director may issue a temporary order pending the hearing which shall be effective upon delivery to the person affected and which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after receipt of notice.

(2) Whether or not the director has issued a cease and desist order, the attorney general, in the name of the state or the director, or the proper prosecuting attorney, may bring 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 under this chapter. 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 state or director shall not be required to post a bond. [1982 c 69 § 18.]

19.105.480 Violations—As gross misdemeanors—Statute of limitations. Any person who wilfully violates any provision of this chapter is guilty of a gross misdemeanor. It is a gross misdemeanor for any person in connection with the offer or sale of any camping club contracts wilfully:

(1) To make any untrue or misleading statement of a material fact, or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(2) To employ any device, scheme, or artifice to defraud;

(3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

(4) To file, or cause to be filed, with the director any document which contains any untrue or misleading information.

No indictment or information may be returned under this chapter more than five years after the alleged violation. [1982 c 69 § 19.]

19.105.490 Violations—Referral to attorney general or prosecuting attorney. The director may refer such evidence as may be available concerning violations of this chapter or of any rule or order under this chapter to the attorney general or the proper prosecuting attorney who may in his discretion, with or without such a reference, institute the appropriate civil or criminal proceedings under this chapter. [1982 c 69 § 20.]

19.105.500 Violations—Application of consumer protection act. For the purposes of application of the Consumer Protection Act, chapter 19.86 RCW, any material violation of the provisions of this chapter shall be construed to constitute an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce. [1982 c 69 § 21.]

19.105.510 Club contracts—Nonapplicability of certain laws to—Club not subdivision except under city, county powers. Camping club contracts registered under this chapter are exempt from the provisions of chapters 21.20 and 58.19 RCW and any act in this state regulating the offer and sale of time shares. A camping club shall not be considered a subdivision under RCW 58.17.020(1). Nothing in this chapter prevents counties

or cities from enacting ordinances or resolutions setting platting or subdivision requirements solely for camping clubs. [1982 c 69 § 22.]

19.105.520 Unlawful to represent director's administrative approval as determination as to merits of club—Penalty. Neither the fact that an application for registration nor the written disclosures required by this chapter have been filed, nor the fact that a camping club contract offering has been effectively registered or exempted, constitutes a finding by the director that the offering or any document filed under this chapter is true, complete, and not misleading, nor does the fact mean that the director has determined in any way the merits or qualifications of or recommended or given approval to any person, camping club operator, or camping club contract transaction. It is a gross misdemeanor to make or cause to be made to any prospective purchaser any representation inconsistent with this section. [1982 c 69 § 24.]

19.105.530 Rules, forms, orders—Making, amending and repeal of. The director may make, amend, and repeal rules, forms, and orders when necessary to carry out the provisions of this chapter. [1982 c 69 § 25.]

Administrative procedure act application: RCW 19.105.540.

19.105.540 Administrative procedure act application. Chapter 34.04 RCW shall apply to any administrative procedures carried out by the director under this chapter unless otherwise provided in this chapter. [1982 c 69 § 26.]

19.105.550 Administration. This chapter shall be administered by the director of licensing. [1982 c 69 § 27.]

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

19.105.910 Construction—Chapter as cumulative and nonexclusive. Except as specifically provided in RCW 19.105.510, the provisions of this chapter are cumulative and nonexclusive and do not affect any other remedy available at law. [1982 c 69 § 23.]

19.105.920 Severability—1982 c 69. 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. [1982 c 69 § 29.]

Reviser's note: "This act" refers to the enactment of RCW 19.105.300, 19.105.310, 19.105.320, 19.105.330, 19.105.340, 19.105.350, 19.105.360, 19.105.370, 19.105.380, 19.105.390, 19.105.400, 19.105.410, 19.105.420, 19.105.430, 19.105.440, 19.105.450, 19.105.460, 19.105.470, 19.105.480, 19.105.490, 19.105.500, 19.105.510, 19.105.520, 19.105.530, 19.105.540, 19.105.550, 19.105.910, 19.105.920, and 19.105.930 and the repeal of RCW 19.105.010 through 19.105.270 and 19.105.900.

19.105.930 Effective date—1982 c 69. This act shall take effect on November 1, 1982. [1982 c 69 § 32.]

Reviser's note: For "this act," see note following RCW 19.105.920.

Title 20
COMMISSION MERCHANTS—
AGRICULTURAL PRODUCTS

Chapters**20.01 Agricultural products—Commission merchants, dealers, brokers, buyers, agents.****Chapter 20.01**

AGRICULTURAL PRODUCTS—COMMISSION MERCHANTS, DEALERS, BROKERS, BUYERS, AGENTS

Sections

20.01.010	Definitions.
20.01.030	Exemptions.
20.01.210	Commission merchants, dealers—Bonds.
20.01.220	Action on bond for fraud.
20.01.330	Denial, revocation, suspension of licenses, probationary orders—Grounds.
20.01.390	When dealer must pay for products delivered to him.
20.01.430	Commission merchant's remittance to consignor.
20.01.460	Prohibited acts—Penalties.

20.01.010 Definitions. As used in this title the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Director" means the director of agriculture or his duly authorized representative.

(2) "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.

(3) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form by or for the producer thereof, and livestock.

(4) "Producer" means any person engaged in the business of growing or producing any agricultural product, whether as the owner of such products, or producing such products for others holding the title thereof.

(5) "Consignor" means any producer, person or his agent who sells, ships or delivers to any commission merchant, dealer, cash buyer, or agent, any agricultural product for processing, handling, sale or resale.

(6) "Commission merchant" means any person who shall receive on consignment for sale or processing and sale from the consignor thereof any agricultural product for sale on commission on behalf of such consignor, or who shall accept any farm product in trust from the consignor thereof for the purpose of resale, or who shall sell or offer for sale on commission any agricultural product, or who shall in any way handle for the account of or as an agent of the consignor thereof, any agricultural product.

(7) "Dealer" means any person other than a cash buyer, as defined in subsection (10) of this section, who solicits, contracts for, or obtains from the consignor

thereof for reselling or processing, title, possession, or control of any agricultural product, or who buys or agrees to buy any agricultural product from the consignor thereof for sale or processing and includes any person, other than one who acts solely as a producer, who retains title in an agricultural product and delivers it to a producer for further production or increase: *Provided*, That for the purpose of this chapter the term dealer includes any person who purchases livestock on behalf of and for the account of another, or who purchases cattle in another state or country and imports these cattle into this state for resale.

(8) "Limited dealer" means any person operating under the alternative bonding provision in RCW 20.01.211, as now or hereafter amended.

(9) "Broker" means any person other than a commission merchant, dealer, or cash buyer who negotiates the purchase or sale of any agricultural product: *Provided*, That no broker may handle the agricultural products involved or proceeds of such sale.

(10) "Cash buyer" means any person other than a commission merchant, dealer, or broker, who obtains from the consignor thereof for the purpose of resale or processing, title, possession or control of any agricultural product or who contracts for the title, possession or control of any agricultural product, or who buys or agrees to buy any agricultural product by paying to the consignor at the time of obtaining possession or control of any agricultural product the full agreed price of such agricultural product, in coin or currency, lawful money of the United States. However, a cashier's check, certified check or bankdraft may be used for such payment.

(11) "Agent" means any person who, on behalf of any commission merchant, dealer, broker, or cash buyer, acts as liaison between a consignor and a principal, or receives, contracts for, or solicits any agricultural product from the consignor thereof or who negotiates the consignment or purchase of any agricultural product on behalf of any commission merchant, dealer, broker, or cash buyer and who transacts all or a portion of such business at any location other than at the principal place of business of his employer: *Provided*, That, with the exception of an agent for a commission merchant or dealer handling horticultural products, an agent may operate only in the name of one principal and only to the account of said principal.

(12) "Retail merchant" means any person operating from a bona fide or established place of business selling agricultural products twelve months of each year: *Provided*, That any retailer may occasionally wholesale any agricultural product which he has in surplus; however, such wholesaling shall not be in excess of two percent of such retailer's gross business.

(13) "Fixed or established place of business" for the purpose of this chapter shall mean any permanent warehouse, building, or structure, at which necessary and appropriate equipment and fixtures are maintained for properly handling those agricultural products generally dealt in, and at which supplies of the agricultural products being usually transported are stored, offered for sale, sold, delivered and generally dealt in in quantities

reasonably adequate for and usually carried for the requirements of such a business and which is recognized as a permanent business at such place, and carried on as such in good faith and not for the purpose of evading this chapter, and where specifically designated personnel are available to handle transactions concerning those agricultural products generally dealt in, said personnel being available during designated and appropriate hours to that business, and shall not mean a residence, barn, garage, tent, temporary stand or other temporary quarters, any railway car, or permanent quarters occupied pursuant to any temporary arrangement.

(14) "Processor" means any person, firm, company or other organization that purchases agricultural crops from a consignor and who cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes such crops in any manner whatsoever for eventual resale.

(15) "Pooling contract" means any written agreement whereby a consignor delivers a horticultural product to a commission merchant under terms whereby the commission merchant may commingle the consignor's horticultural products for sale with others similarly agreeing, which must include all of the following:

(a) A delivery receipt for the consignor which shall indicate the variety of horticultural product delivered, the number of containers, or the weight and tare thereof.

(b) Horticultural products received for handling and sale in the fresh market shall be accounted for to the consignor with individual pack-out records which shall include variety, grade, size and date of delivery. Individual daily packing summaries shall be available within forty-eight hours after packing occurs: *Provided*, That platform inspection shall be acceptable by mutual contract agreement on small deliveries to determine variety, grade, size and date of delivery.

(c) Terms under which the commission merchant may use his judgment in regard to the sale of the pooled horticultural product.

(d) The charges to be paid by the consignor as filed with the state of Washington.

(e) A provision that the consignor shall be paid for his pool contribution when the pool is in the process of being marketed in direct proportion, not less than eighty percent of his interest less expenses directly incurred, prior liens, and other advances on the grower's crop unless otherwise mutually agreed upon between grower and commission merchant.

(16) "Date of sale" means the date agricultural products are delivered to the person buying such products. [1982 c 194 § 1; 1981 c 296 § 30; 1979 ex.s. c 115 § 1; 1977 ex.s. c 304 § 1; 1974 ex.s. c 102 § 2; 1971 ex.s. c 182 § 1; 1967 c 240 § 40; 1963 c 232 § 1; 1959 c 139 § 1.]

Severability—1981 c 296: See note following RCW 15.04.020.

20.01.030 Exemptions. This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW or chapter 24.32 RCW, except as

to that portion of the activities of such association or federation as involves the handling or dealing in the agricultural products of nonmembers of such organization: *Provided*, That such associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: *Provided further*, That if such cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets such processed agricultural crops on behalf of the grower or its own behalf, said association or federation shall be subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: *Provided further*, That none of the foregoing exemptions in this subsection shall apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW.

(2) Any person who sells exclusively his own agricultural products as the producer thereof.

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of such public livestock market's obligation: *Provided*, That any such market operating as a livestock dealer and/or order buyer shall be subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040 as now or hereafter amended.

(4) Any retail merchant having bona fide fixed or permanent place of business in this state.

(5) Any person buying farm products for his own use or consumption.

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his operations as a licensee under that act.

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his operations as such licensee.

(8) Any person licensed under the now existing dairy laws of the state with respect to his operations as such licensee.

(9) Any producer who purchases less than fifteen percent of his volume to complete orders.

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder. [1982 c 194 § 2; 1981 c 296 § 31; 1979 ex.s. c 115 § 2; 1977 ex.s. c 304 § 2; 1975 1st ex.s. c 7 § 18; 1971 ex.s. c 182 § 2; 1969 ex.s. c 132 § 1; 1967 c 240 § 41; 1959 c 139 § 3.]

Severability—1981 c 296: See note following RCW 15.04.020.

20.01.210 Commission merchants, dealers—Bonds. Before the license is issued to any commission merchant and/or dealer the applicant shall execute and deliver to the director a surety bond executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety. Such bond shall be in the sum of seven thousand five hundred dollars for a commission merchant or any dealer handling livestock, hay, grain, or straw and a bond in the sum of three thousand dollars for any other dealer: *Provided*,

That the bond for a commission merchant, a dealer acting as a processor, or a dealer in livestock, hay, grain, or straw shall be in a minimum amount of seven thousand five hundred dollars or more based upon the annual gross dollar volume of purchases by, or consignments to the licensee. A dealer in livestock shall increase his bond by five thousand dollars for each agent he has endorsed pursuant to RCW 20.01.090. The bond for any other dealer shall be in the minimum amount of three thousand dollars, or an increased amount based upon the annual gross dollar volume of purchases by, or consignments to, the licensee. The bond for such commission merchant or dealer shall be determined by taking the annual gross dollar volume of that commission merchant or dealer of net payment to growers and dividing that amount by fifty-two and the bond shall be in an amount to the next multiple of two thousand dollars larger than the sum: *Provided*, That the gross dollar volume used in computing the bond requirements of a commission merchant or dealer handling horticultural products shall be based on the net proceeds due to growers: *Provided further*, That bonds above twenty-six thousand dollars shall be not less than the next multiple of five thousand dollars above the amount secured by applying the formula except that when the bond amount reaches fifty thousand dollars any amount of bond required above this shall be on a basis of ten percent of the amount arrived by applying the formula of annual gross divided by fifty-two. Such bond shall be of a standard form and approved by the director as to terms and conditions. Said bond shall be conditioned that the principal or his or her agents will not commit any fraudulent act and will comply with the provisions of this chapter and the rules and regulations adopted hereunder. Said bond shall be to the state for the benefit of every consignor of an agricultural product in this state. The total and aggregate liability of the surety for all claims upon the bond shall be limited to the face of such bond. Every bond filed with and approved by the director shall without the necessity of periodic renewal remain in force and effect until released by notice from the director when a superseding bond has been issued and is in effect. All such sureties on a bond, as provided herein, shall also be released and discharged from all liability to the state accruing on such bond by giving notice to the principal and the director by certified mail. Upon receipt of such notice the director shall notify the surety and the principal of the effective date of termination which shall be thirty days from the receipt of such notice by the director, but this shall not operate to relieve, release or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration period provided for above. Unless the principal shall before the expiration of such period, file a new bond, the director shall forthwith cancel the principal's license. Upon such cancellation the license and vehicle plates issued attendant to the license shall be surrendered to the director forthwith. [1982 c 194 § 3; 1977 ex.s. c 304 § 6; 1974 ex.s. c 102 § 5; 1971 ex.s. c 182 § 8; 1963 c 232 § 5. Prior: 1959 c 139 § 21.]

Cash or other security in lieu of surety bond: RCW 20.01.570.

20.01.220 Action on bond for fraud. Any consignor of an agricultural product claiming to be injured by the fraud of any commission merchant and/or dealer or their agents may bring action upon said bond against principal, surety, and agent in any court of competent jurisdiction to recover the damages caused by such fraud. [1982 c 194 § 4; 1959 c 139 § 22.]

20.01.330 Denial, revocation, suspension of licenses, probationary orders—Grounds. The director may refuse to grant a license or renew a license and may revoke or suspend a license or issue a conditional or probationary order if he is satisfied after a hearing, as herein provided, of the existence of any of the following facts, which are hereby declared to be a violation of this chapter:

(1) That fraudulent charges or returns have been made by the applicant, or licensee, for the handling, sale or storage of, or for rendering of any service in connection with the handling, sale or storage of any agricultural product.

(2) That the applicant, or licensee, has failed or refused to render a true account of sales, or to make a settlement thereon, or to pay for agricultural products received, within the time and in the manner required by this chapter.

(3) That the applicant, or licensee, has made any false statement as to the condition, quality or quantity of agricultural products received, handled, sold or stored by him.

(4) That the applicant, or licensee, directly or indirectly has purchased for his own account agricultural products received by him upon consignment without prior authority from the consignor together with the price fixed by consignor or without promptly notifying the consignor of such purchase. This shall not prevent any commission merchant from taking to account of sales, in order to close the day's business, miscellaneous lots or parcels of agricultural products remaining unsold, if such commission merchant shall forthwith enter such transaction on his account of sales.

(5) That the applicant, or licensee, has intentionally made any false or misleading statement as to the conditions of the market for any agricultural products.

(6) That the applicant, or licensee, has made fictitious sales or has been guilty of collusion to defraud the consignor.

(7) That a commission merchant to whom any consignment is made has reconsigned such consignment to another commission merchant and has received, collected, or charged by such means more than one commission for making the sale thereof, for the consignor, unless by written consent of such consignor.

(8) That the licensee was guilty of fraud or deception in the procurement of such license.

(9) That the licensee or applicant has failed or refused to file with the director a schedule of his charges for services in connection with agricultural products handled on account of or as an agent of another, or that the applicant, or licensee, has indulged in any unfair practice.

(10) That the licensee has rejected, without reasonable cause, or has failed or refused to accept, without reasonable cause, any agricultural product bought or contracted to be bought from a consignor by such licensee; or failed or refused, without reasonable cause, to furnish or provide boxes or other containers, or hauling, harvesting, or any other service contracted to be done by licensee in connection with the acceptance, harvesting, or other handling of said agricultural products bought or handled or contracted to be bought or handled; or has used any other device to avoid acceptance or unreasonably to defer acceptance of agricultural products bought or handled or contracted to be bought or handled.

(11) That the licensee has otherwise violated any provision of this chapter and/or rules and regulations adopted hereunder.

(12) That the licensee has knowingly employed an agent, as defined in this chapter, without causing said agent to comply with the licensing requirements of this chapter applicable to agents.

(13) That the applicant or licensee has, in the handling of any agricultural products, been guilty of fraud, deceit, or negligence.

(14) That the licensee has failed or refused, upon demand, to permit the director or his agents to make the investigations, examination or audits, as provided in this chapter, or that the licensee has removed or sequestered any books, records, or papers necessary to any such investigations, examination, or audits, or has otherwise obstructed the same.

(15) That the licensee, without reasonable cause, has failed or refused to execute or carry out a lawful contract with a consignor.

(16) That the licensee has failed or refused to keep and maintain the records as required by this chapter and/or rules and regulations adopted hereunder.

(17) That the licensee has attempted payment by a check the licensee knows not to be backed by sufficient funds to cover such check.

(18) That the licensee has been guilty of fraud or deception in his dealings with purchasers including misrepresentation of goods as to grade, quality, weights, quantity, or any other essential fact in connection therewith.

(19) That the licensee has permitted an agent to in fact operate his own separate business under cover of the licensee's license and bond.

(20) That a commission merchant or dealer has failed to furnish additional bond coverage within fifteen days of when it was requested in writing by the director.

(21) That the licensee has discriminated in the licensee's dealings with consignors on the basis of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap. [1982 c 20 § 1; 1981 c 296 § 32; 1977 ex.s. c 304 § 8; 1971 ex.s. c 182 § 11; 1959 c 139 § 33.]

Severability—1981 c 296: See note following RCW 15.04.020.

20.01.390 When dealer must pay for products delivered to him. (1) Every dealer must pay for agricultural products, except livestock, delivered to him at the time and in the manner specified in the contract with the producer, but if no time is set by such contract, or at the time of said delivery, then within thirty days from the delivery or taking possession of such agricultural products.

(2) Every dealer must pay for livestock delivered to him at the time and in the manner specified in the contract, but if no time is set by such contract, or at the time of said delivery, then within seven days from the delivery or taking possession of such livestock. Where payment for livestock is made by mail, payment is timely if mailed within seven days of the date of sale. [1982 c 20 § 2; 1959 c 139 § 39.]

20.01.430 Commission merchant's remittance to consignor. Every commission merchant shall remit to the consignor of any agricultural product the full price for which such agricultural product was sold within thirty days of the date of sale, or in the case of livestock within seven days of the date of sale unless otherwise mutually agreed between grower and commission merchant. The remittance to the consignor shall include all collections, overcharges, and damages, less the agreed commission and other charges and advances, and a complete account of the sale. Where payment for livestock is made by mail, payment is timely if mailed within seven days of the date of sale unless otherwise specified in an agreement between the producer and the dealer in livestock. [1982 c 20 § 3; 1977 ex.s. c 304 § 11; 1974 ex.s. c 102 § 9; 1959 c 139 § 43.]

20.01.460 Prohibited acts—Penalties. (1) Except as provided in subsection (2) of this section, a person who violates the provisions of this chapter or fails to comply with the rules adopted under this chapter is guilty of a gross misdemeanor.

(2) Any commission merchant, dealer, or cash buyer, or any person assuming or attempting to act as a commission merchant, dealer, or cash buyer without a license is guilty of a class C felony who:

(a) Imposes false charges for handling or services in connection with agricultural products.

(b) Makes fictitious sales or is guilty of collusion to defraud the consignor.

(c) Intentionally makes false statement or statements as to the grade, conditions, markings, quality, or quantity of goods shipped or packed in any manner.

(d) Intentionally fails to pay for agricultural products valued at more than two hundred fifty dollars within the time and in the manner required by this chapter, or attempts payment of an amount greater than two hundred fifty dollars by a check he or she knows not to be backed by sufficient funds to cover such check. [1982 c 20 § 4; 1959 c 139 § 46.]

Title 23
CORPORATIONS AND ASSOCIATIONS
(PROFIT)
 (Business Corporation Act: See Title 23A RCW)

Chapters

- 23.86** Cooperative associations.
23.90 Massachusetts trusts.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Chapter 23.86
COOPERATIVE ASSOCIATIONS

Sections

- 23.86.050 Articles—Contents.
 23.86.060 Articles—Signatures—Filing.
 23.86.070 Filing fees.
 23.86.075 Fees for services by secretary of state.
 23.86.090 Amendments to articles.
 23.86.191 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.
 23.86.210 Conversion of cooperative association to domestic ordinary business corporation—Procedure.
 23.86.220 Merger of cooperative association with one or more cooperative associations or business corporations—Procedure.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

23.86.050 Articles—Contents. Every association formed under this chapter shall prepare articles of association in writing, which shall set forth:

- (1) The name of the association.
- (2) The purpose for which it was formed.
- (3) Its principal place of business.
- (4) The term for which it is to exist which may be perpetual or for a stated number of years.
- (5) The amount of capital stock, the number of shares and the par value of each share. [1982 c 35 § 171; 1961 c 34 § 1; 1913 c 19 § 2; RRS § 3905. Formerly RCW 23.56.050.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23.86.060 Articles—Signatures—Filing. Duplicate original articles of associations organized under this chapter signed by at least two of the associators shall be filed with the secretary of state, at which time the said association shall be deemed to be legally organized. [1982 c 35 § 172; 1981 c 302 § 2; 1913 c 19 § 3; RRS § 3906. Formerly RCW 23.56.060.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 302: See note following RCW 19.76.100.

23.86.070 Filing fees. For filing articles of association organized under this chapter there shall be paid to the secretary of state the sum of twenty-five dollars and for filing of an amendment thereof the sum of twenty

dollars. Associations organized under this chapter shall not be subject to any corporation license fees excepting the fees hereinabove enumerated. [1982 c 35 § 173; 1959 c 263 § 2; 1953 c 214 § 1; 1925 ex.s. c 99 § 1; 1913 c 19 § 4; RRS § 3907. Formerly RCW 23.56.070.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23.86.075 Fees for services by secretary of state. See RCW 43.07.120.

23.86.090 Amendments to articles. The articles of association may be amended by a majority vote of the members voting thereon, at any regular meeting or at any special meeting called for that purpose, after notice of the proposed amendment has been given to all members entitled to vote thereon, in the manner provided by the bylaws: *Provided*, That if the total vote upon the proposed amendment shall be less than twenty-five percent of the total membership of the association, the amendment shall not be approved. At the meeting, members may vote upon the proposed amendment in person, or by written proxy, or by mailed ballot. The power to amend shall include the power to extend the period of its duration for a further definite time or perpetually, and also include the power to increase or diminish the amount of capital stock and the number of shares: *Provided*, The amount of the capital stock shall not be diminished below the amount of the paid-up capital stock at the time such amendment is adopted. Within thirty days after the adoption of an amendment to its articles of association, the association shall cause a copy of such amendment adopted to be recorded in the office of the secretary of state. [1982 c 35 § 174; 1981 c 297 § 32; 1961 c 34 § 2; 1913 c 19 § 6; RRS § 3909. Formerly RCW 23.56.090.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 297: See note following RCW 15.36.110.

23.86.191 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

23.86.210 Conversion of cooperative association to domestic ordinary business corporation—Procedure. (1) A cooperative association may be converted to a domestic ordinary business corporation pursuant to the following procedures:

(a) The board of trustees of the association shall, by affirmative vote of not less than two-thirds of all such trustees, adopt a plan for such conversion setting forth:

(i) The reasons why such conversion is desirable and in the interests of the members of the association;

(ii) The proposed contents of articles of conversion with respect to items (ii) through (ix) of subparagraph (c) below; and

(iii) Such other information and matters as the board of trustees may deem to be pertinent to the proposed plan.

(b) After adoption by the board of trustees, the plan for conversion shall be submitted for approval or rejection to the members of the association at any regular meetings or at any special meetings called for that purpose, after notice of the proposed conversion has been given to all members entitled to vote thereon, in the manner provided by the bylaws. The notice of the meeting shall be accompanied by a full copy of the proposed plan for conversion or by a summary of its provisions. At the meeting members may vote upon the proposed conversion in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon shall be required for approval of the plan of conversion: *Provided*, That if the total vote upon the proposed conversion shall be less than twenty-five percent of the total membership of the association, the conversion shall not be approved.

(c) Upon approval by the members of the association, the articles of conversion shall be executed in duplicate by the association by one of its officers and shall set forth:

(i) The dates and vote by which the plan for conversion was adopted by the board of trustees and members respectively;

(ii) The corporate name of the converted organization. The name shall comply with requirements for names of business corporations formed under Title 23A RCW, and shall not contain the term "cooperative";

(iii) The purpose or purposes for which the converted corporation is to exist;

(iv) The duration of the converted corporation, which may be perpetual or for a stated term of years;

(v) The capitalization of the converted corporation and the class or classes of shares of stock into which divided, together with the par value, if any, of such shares, in accordance with statutory requirements applicable to ordinary business corporations, and the basis upon which outstanding shares of the association are converted into shares of the converted corporation;

(vi) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the converted corporation;

(vii) The address of the converted corporation's initial registered office and its initial registered agent at such address;

(viii) The names and addresses of the persons who are to serve as directors of the converted corporation until the first annual meeting of shareholders of the converted corporation or until their successors are elected and qualify;

(ix) Any additional provisions, not inconsistent with law, provided for by the plan for conversion for the regulation of the internal affairs of the converted corporation, including any provision restricting the transfer of shares or which under Title 23A RCW is required or permitted to be set forth in bylaws.

(d) The executed duplicate originals of the articles of conversion shall be delivered to the secretary of state. If the secretary of state finds that the articles of conversion conform to law, the secretary of state shall, when all the fees have been paid as in this section prescribed:

(i) Endorse on each of such originals the word "Filed", and the effective date of such filing;

(ii) File one of such originals; and

(iii) Issue a certificate of conversion to which one of such originals shall be affixed.

The certificate of conversion together with the original of the articles of conversion affixed thereto by the secretary of state shall be returned to the converted corporation. The original affixed to the certificate of conversion shall be retained by the converted corporation.

(e) Upon filing the articles of conversion the converted corporation shall pay, and the secretary of state shall collect, the same filing and license fees as for filing articles of incorporation of a newly formed business corporation similarly capitalized.

(2) Upon filing by the secretary of state of the articles of conversion, the conversion of the cooperative association to an ordinary business corporation shall become effective; the articles of conversion shall thereafter constitute and be treated in like manner as articles of incorporation; and the converted corporation shall be subject to all laws applicable to corporations formed under Title 23A RCW, and shall not thereafter be subject to laws applying only to cooperative associations. The converted corporation shall constitute and be deemed to constitute a continuation of the corporate substance of the cooperative association and the conversion shall in no way derogate from the rights of creditors of the former association.

(3) A member of the cooperative association who dissents from the plan for conversion shall have the same right of dissent and payment and in accordance with the same applicable procedures, as are provided for dissenting shareholders with respect to merger of ordinary business corporations under chapter 23A.24 RCW. [1982 c 35 § 175; 1981 c 297 § 34; 1971 ex.s. c 221 § 2.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 297: See note following RCW 15.36.110.

23.86.220 Merger of cooperative association with one or more cooperative associations or business corporations—Procedure. (1) A cooperative association may merge with one or more domestic cooperative associations, or with one or more domestic ordinary business corporations, in accordance with the procedures and subject to the conditions set forth or referred to in this section.

(2) If the merger is into another domestic cooperative association, the board of trustees of each of the associations shall approve by vote of not less than two-thirds of all the trustees, a plan of merger setting forth:

(a) The names of the associations proposing to merge;

(b) The name of the association which is to be the surviving association in the merger;

(c) The terms and conditions of the proposed merger;

(d) The manner and basis of converting the shares of each merging association into shares or other securities or obligations of the surviving association;

(e) A statement of any changes in the articles of association of the surviving association to be effected by such merger; and

(f) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

(3) Following approval by the boards of trustees, the plan of merger shall be submitted to a vote of the members of each of the associations at any regular meeting or at any special meetings called for that purpose, after notice of the proposed merger has been given to all members entitled to vote thereon, in the manner provided in the bylaws. The notice of the meeting shall be in writing stating the purpose or purposes of the meeting and include or be accompanied by a copy or summary of the plan of merger. At the meeting members may vote upon the proposed merger in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon, by each association, shall be required for approval of the plan of merger: *Provided*, That if the total vote of either association upon the proposed merger shall be less than twenty-five percent of the total membership of such association, the merger shall not be approved.

(4) Upon approval by the members of the associations proposing to merge, articles of merger shall be executed in duplicate by each association by an officer of each association, and shall set forth:

(a) The plan of merger;

(b) As to each association, the number of members and number of shares outstanding; and

(c) As to each association, the number of members who voted for and against such plan, respectively.

(5) Duplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this section prescribed:

(a) Endorse on each of such originals the word "Filed", and the effective date of such filing;

(b) File one of such originals; and

(c) Issue a certificate of merger to which one of such originals shall be affixed.

(6) The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state shall be returned to the surviving association or its representative.

(7) For filing articles of merger hereunder the secretary of state shall charge and collect the same fees as apply to filing of articles of merger of ordinary business corporations.

(8) If the plan of merger is for merger of the cooperative association into a domestic ordinary business corporation, the association shall follow the same procedures as hereinabove provided for merger of domestic cooperative associations and the ordinary business corporation shall follow the applicable procedures set forth in chapter 23A.20 RCW.

(9) At any time prior to filing of the articles of merger, the merger may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger.

(10) A member of a cooperative association, or shareholder of the ordinary business corporation, who dissents from the plan of merger shall have the same right of dissent and payment and in accordance with the same applicable procedures, as are provided for dissenting shareholders with respect to merger of ordinary business corporations under chapter 23A.24 RCW. [1982 c 35 § 176; 1981 c 297 § 35; 1971 ex.s. c 221 § 3.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 297: See note following RCW 15.36.110.

Chapter 23.90

MASSACHUSETTS TRUSTS

Sections

23.90.050 Fees for services by secretary of state.
23.90.060 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

23.90.050 Fees for services by secretary of state. See RCW 43.07.120.

23.90.060 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

Title 23A

WASHINGTON BUSINESS CORPORATION ACT

Chapters

23A.04 Definitions.
23A.08 Substantive provisions.
23A.12 Formation of corporations.
23A.16 Amendment.
23A.20 Merger and consolidation.
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23A.32 Foreign corporations.
23A.36 Nonadmitted organizations.
23A.40 Fees and charges.
23A.44 Miscellaneous provisions.
23A.98 Construction.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this title: RCW 43.07.130.

Chapter 23A.04 DEFINITIONS

Sections

23A.04.010 Definitions.

23A.04.010 Definitions. As used in this title, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this title, except a foreign corporation.

(2) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this title.

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

(4) "Shares" means the units into which the proprietary interests in a corporation are divided.

(5) "Subscriber" means one who subscribes for one or more shares in a corporation, whether before or after incorporation.

(6) "Shareholder" means one who is a holder of record of one or more shares in a corporation. If the articles of incorporation or the bylaws so provide, the board of directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. The resolution shall set forth:

(a) The classification of shareholder who may certify;

(b) The purpose or purposes for which the certification may be made;

(c) The form of certification and information to be contained therein;

(d) If the certification is with respect to a record date or closing of the stock transfer books within which the certification must be received by the corporation; and

(e) Such other provisions with respect to the procedure as are deemed necessary or desirable.

Upon receipt by the corporation of a certification complying with the procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth in the certification, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

(7) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

(8) "Treasury shares" means shares of a corporation which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been canceled or restored to the status of authorized but unissued shares. Treasury shares shall be deemed to be "issued" shares but not "outstanding" shares.

(9) "Net assets" means the amount by which the total assets of a corporation exceed the total debts of the corporation.

(10) "Stated capital" means, at any particular time, the sum of (a) the par value of all shares of the corporation having a par value that have been issued, (b) the amount of the consideration received by the corporation for all shares of the corporation without par value that

have been issued, except such part of the consideration therefor as may have been allocated to capital surplus in a manner permitted by law, and (c) such amounts not included in clauses (a) and (b) of this paragraph as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sum as have been effected in a manner permitted by law. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation shall be determined on the same basis and in the same manner as the stated capital of a domestic corporation, for the purpose of computing fees and other charges imposed by this title.

(11) "Surplus" means the excess of the net assets of a corporation over its stated capital.

(12) "Earned surplus" means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent such distributions and transfers are made out of earned surplus. Earned surplus shall include also any portion of surplus allocated to earned surplus in mergers, consolidations or acquisitions of all or substantially all of the outstanding shares or of the property and assets of another corporation, domestic or foreign.

(13) "Capital surplus" means the entire surplus of a corporation other than its earned surplus.

(14) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its business.

(15) For the purposes of RCW 23A.40.040, 23A.40.050, 23A.40.060, and 23A.32.073 the term or terms:

(a) "Stock" means shares.

(b) "Capital" and "capital stock" and "authorized capital stock" mean the sum of (i) the par value of all shares of the corporation having a par value that the corporation is authorized to issue, and (ii) the amount expected to be allocated to stated capital out of the amount of the consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.

(c) "Capitalization" means stated capital.

(d) "Value of the assets received and to be received by such corporation in return for the issuance of its nonpar value stock" and "value of the assets represented by nonpar shares" mean the amount expected to be allocated to stated capital out of the amount of consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.

(e) "Value of the assets received in consideration of the issuance of such nonpar value stock" means the stated capital represented by the nonpar value shares issued by the corporation.

(f) "The number of shares of capital stock of the company" means the number of shares of the corporation.

(16) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(17) "Conforms to law" as used in this title in connection with duties of the secretary of state in reviewing documents for filing under this title means the secretary of state has determined the document complies as to form with the applicable requirements of this title.

(18) "Effective date" means, in connection with a filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this title and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the date of receipt which might otherwise be applied as the effective date.

(19) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person submitting the document with the secretary of state.

(20) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary or the treasurer of the corporation. [1982 c 35 § 4; 1979 c 16 § 1; 1965 c 53 § 3.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 23A.08

SUBSTANTIVE PROVISIONS

Sections

23A.08.060	Reserved name.
23A.08.090	Registered office and registered agent.
23A.08.100	Change of registered office or registered agent.
23A.08.110	Service of process on corporation.
23A.08.130	Issuance of shares of preferred or special classes in series.
23A.08.340	Board of directors.
23A.08.450	Liability of directors in certain cases.
23A.08.480	Recodified.

23A.08.060 Reserved name. The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing and one renewal for a like period.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee. [1982 c 35 § 5; 1979 c 16 § 6; 1969 ex.s. c 83 § 1; 1965 c 53 § 9.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.08.090 Registered office and registered agent.

Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its place of business. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to transact business in Washington may be permitted to maintain any action in any court in this

state until the corporation complies with the requirements of this section. [1982 c 35 § 6; 1965 c 53 § 12.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Involuntary dissolution—Failure to appoint and maintain a registered office or registered agent: RCW 23A.28.130.

Registered office and registered agent of foreign corporation: RCW 23A.32.080.

23A.08.100 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent or both, upon filing in the office of the secretary of state in the form prescribed by the secretary of state a statement setting forth:

- (1) The name of the corporation.
- (2) If the address of its registered office is to be changed, the address to which the registered office is to be changed.
- (3) If its registered agent is to be changed, the name of its successor registered agent.
- (4) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.
- (5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by an officer of the corporation and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this title the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail one copy thereof to the corporation or its representative. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the state, he or it may change such address and the address of the registered office of any corporation of which he or it is a registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsections (3) or (5) of this section, and it must recite that a copy of the statement has been mailed to the corporation. [1982 c 35 § 7; 1979 c 16 § 7; 1977 ex.s. c 193 § 1; 1967 c 190 § 1; 1965 c 53 § 13.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Change of registered office or registered agent of foreign corporation: RCW 23A.32.090.

Involuntary dissolution—Failure to file statement of change of registered office or registered agent: RCW 23A.28.130.

23A.08.110 Service of process on corporation. The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1982 c 35 § 8; 1967 c 190 § 2; 1965 c 53 § 14.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.08.130 Issuance of shares of preferred or special classes in series. (1) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

- (a) The rate of dividend.
- (b) Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption.
- (c) The amount payable upon shares in event of voluntary and involuntary liquidation.
- (d) Sinking fund provisions, if any, for the redemption or purchase of shares.
- (e) The terms and conditions, if any, on which shares may be converted.
- (f) Voting rights, if any.

(2) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(3) In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

(4) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file and execute in the manner hereinafter provided a statement setting forth:

(a) The name of the corporation.

(b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.

(c) The date of adoption of such resolution.

(d) That such resolution was duly adopted by the board of directors.

(5) Such statement shall be executed in duplicate by the corporation by one of its officers, and shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(a) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(b) File one of such originals.

(c) Return the other original to the corporation or its representative.

(6) Upon the filing of such statement by the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation. [1982 c 35 § 9; 1977 ex.s. c 193 § 2; 1975 1st ex.s. c 264 § 5; 1965 c 53 § 16.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.08.340 Board of directors. All corporate powers shall be exercised by or under authority of, and the business and affairs of a corporation shall be managed under the direction of, a board of directors except as may be otherwise provided in this title or the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this title shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation: *Provided*, That the names and addresses of such person or persons shall be set out in the articles of

incorporation in the same manner as names and addresses of directors would be set out. Directors need not be residents of this state or shareholders of the corporation unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation. [1982 c 35 § 10; 1980 c 99 § 4; 1965 c 53 § 37.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.08.450 Liability of directors in certain cases. In addition to any other liabilities, directors shall be liable in the following circumstances unless they comply with the standard provided in RCW 23A.08.343 for the performance of the duties of directors:

(1) Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this title or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this title or the restrictions in the articles of incorporation.

(2) Directors of a corporation who vote for or assent to the purchase of its own shares contrary to the provisions of this title shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this title.

(3) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations, and liabilities of the corporation are not thereafter paid and discharged.

(4) The directors of a corporation who vote for or assent to the making of a loan to an officer or director of the corporation, or the making of any loan secured by shares of the corporation, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof, unless approved by the shareholders as provided in RCW 23A.08.440.

Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of

this title, in proportion to the amounts received by them respectively.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted. [1982 c 35 § 11; 1980 c 99 § 8; 1979 c 16 § 24; 1965 c 53 § 48.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.08.480 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 23A.12

FORMATION OF CORPORATIONS

Sections

23A.12.020	Articles of incorporation.
23A.12.030	Filing of articles of incorporation.
23A.12.040	Effect of filing the articles of incorporation—Certificate of incorporation.

23A.12.020 Articles of incorporation. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated term of years.
- (3) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this title.
- (4) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.
- (5) If all or any portion of the shares have no par value, the aggregate value of those shares, or, such aggregate value shall be stated in the statement filed pursuant to RCW 23A.40.050.
- (6) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.
- (7) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.
- (8) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

(9) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision restricting the transfer of shares and any provision which under this title is required or permitted to be set forth in the bylaws.

(10) The address of its initial registered office and the name of its initial registered agent at such address.

(11) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

(12) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this title. [1982 c 35 § 14; 1979 c 16 § 27; 1965 c 53 § 55.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.12.030 Filing of articles of incorporation. Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall, when all the fees have been paid as in this title described:

- (1) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.
- (2) File one of such originals.
- (3) Issue a certificate of incorporation to which the other original shall be affixed.

The certificate of incorporation together with the original of the articles of incorporation affixed thereto by the secretary of state shall be returned to the incorporators or their representative. [1982 c 35 § 15; 1977 ex.s. c 193 § 4; 1965 c 53 § 56.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.12.040 Effect of filing the articles of incorporation—Certificate of incorporation. Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this title, except as against this state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation. [1982 c 35 § 16; 1979 c 16 § 28; 1965 c 53 § 57.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 23A.16 AMENDMENT

Sections

23A.16.040	Articles of amendment.
23A.16.050	Filing of articles of amendment.

- 23A.16.060 Effective date of amendment—Existing actions, suits, rights not impaired.
 23A.16.075 Restated articles of incorporation.
 23A.16.080 Amendment of articles of incorporation in reorganization proceedings.
 23A.16.100 Cancellation of redeemable shares by redemption or purchase.
 23A.16.110 Cancellation of other reacquired shares.
 23A.16.120 Reduction of stated capital in certain cases.

23A.16.040 Articles of amendment. The articles of amendment shall be executed in duplicate by the corporation by one of its officers, and shall set forth:

- (1) The name of the corporation.
- (2) The amendment so adopted.
- (3) The date of the adoption of the amendment by the shareholders, or by the board of directors where no shares have been issued.
- (4) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.
- (5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively.
- (6) If such amendment provides for an exchange, reclassification, or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected.
- (7) If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment. [1982 c 35 § 17; 1979 c 16 § 31; 1977 ex.s. c 193 § 5; 1965 c 53 § 63.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.16.050 Filing of articles of amendment. Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.
- (2) File one of such originals.
- (3) Issue a certificate of amendment to which the other original shall be affixed.

The certificate of amendment, together with the original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1982 c 35 § 18; 1977 ex.s. c 193 § 6; 1967 c 190 § 4; 1965 c 53 § 64.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.16.060 Effective date of amendment—Existing actions, suits, rights not impaired. The amendment shall become effective upon the filing of the articles of amendment by the secretary of state, or on such later date, not more than thirty days subsequent to the filing thereof with the secretary of state, as shall be provided for in the articles of amendment.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason. [1982 c 35 § 19; 1979 c 16 § 32; 1965 c 53 § 65.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.16.075 Restated articles of incorporation. A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of the resolution, restated articles of incorporation shall be executed in duplicate by the corporation by one of its officers signing the articles and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

- (1) Endorse on each duplicate original the word "Filed" and the effective date of the filing thereof;
- (2) File one duplicate original in the secretary of state's office; and
- (3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto. [1982 c 35 § 20; 1979 c 16 § 33.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.16.080 Amendment of articles of incorporation in reorganization proceedings. (1) Whenever a plan of reorganization of a corporation has been confirmed by

decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(a) Change the corporate name, period of duration, or corporate purposes of the corporation;

(b) Repeal, alter, or amend the bylaws of the corporation;

(c) Change the aggregate number of shares, or shares of any class, which the corporation has authority to issue;

(d) Change the preferences, limitations, and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(e) Authorize the issuance of bonds, debentures, or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(f) Constitute or reconstitute and classify or reclassify the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(2) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(a) Articles of amendment approved by decree or order of such court shall be executed and verified in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(b) Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(i) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.

(ii) File one of such originals in the secretary of state's office.

(iii) Issue a certificate of amendment to which the other original shall be affixed.

(3) The certificate of amendment, together with the original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

(4) The amendment shall become effective upon the filing of the articles of amendment by the secretary of state, or on such later date, not more than thirty days subsequent to the filing thereof with the secretary of state, as shall be provided for in the articles of amendment, without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation. [1982 c 35 § 21; 1979 c 16 § 34; 1977 ex.s. c 193 § 8; 1965 c 53 § 67.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.16.100 Cancellation of redeemable shares by redemption or purchase.

(1) When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares, and a statement of cancellation shall be filed as provided in this section. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so canceled which the corporation is authorized to issue by the number of shares so canceled.

(2) The statement of cancellation shall be executed in duplicate by the corporation by one of its officers, and shall set forth:

(a) The name of the corporation.

(b) The number of redeemable shares canceled through redemption or purchase, itemized by classes and series.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect of such cancellation.

(e) If the articles of incorporation provide that the canceled shares shall not be reissued, then the number of shares which the corporation has authority to issue, itemized by classes and series, after giving effect to such cancellation.

(3) Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(a) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.

(b) File one of such originals in the secretary of state's office.

(c) Return the other original to the corporation or its representative.

(4) Upon the filing by the secretary of state of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this title. [1982 c 35 § 22; 1977 ex.s. c 193 § 9; 1965 c 53 § 69.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.16.110 Cancellation of other reacquired shares.

(1) A corporation may at any time, by resolution of its board of directors, cancel all or any part of the shares of the corporation of any class reacquired by it, other than redeemable shares redeemed or purchased, and in such event a statement of cancellation shall be filed as provided in this section.

(2) The statement of cancellation shall be executed in duplicate by the corporation by one of its officers, and shall set forth:

(a) The name of the corporation.

(b) The number of reacquired shares canceled by resolution duly adopted by the board of directors, itemized by classes and series, and the date of its adoption.

(c) The aggregate number of issued shares, itemized by classes and series, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(3) Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(a) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.

(b) File one of such originals in the secretary of state's office.

(c) Return the other original to the corporation or its representative.

(4) Upon the filing by the secretary of state of such statement of cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so canceled, and the shares so canceled shall be restored to the status of authorized but unissued shares.

(5) Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this title. [1982 c 35 § 23; 1977 ex.s. c 193 § 10; 1965 c 53 § 70.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

*Unauthorized signature on document filed with secretary of state—
Penalty: RCW 23A.44.010.*

23A.16.120 Reduction of stated capital in certain cases. (1) A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this title for the giving of notice of meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

(2) When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed in duplicate by the corporation by one of its officers, and shall set forth:

(a) The name of the corporation.

(b) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.

(c) The number of shares outstanding, and the number of shares entitled to vote thereon.

(d) The number of shares voted for and against such reduction, respectively.

(e) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

(3) Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(a) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.

(b) File one of such originals in the secretary of state's office.

(c) Return the other original to the corporation or its representative.

(4) Upon the filing of such statement by the secretary of state, the stated capital of the corporation shall be reduced as therein set forth.

(5) No reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate

preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation. [1982 c 35 § 24; 1977 ex.s. c 193 § 11; 1965 c 53 § 71.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

Chapter 23A.20

MERGER AND CONSOLIDATION

Sections

23A.20.040	Articles of merger, consolidation, or exchange.
23A.20.050	Merger of subsidiary corporation.
23A.20.060	Effect of merger, consolidation, or exchange.
23A.20.070	Merger or consolidation of domestic and foreign corporations—Participation in an exchange.

23A.20.040 Articles of merger, consolidation, or exchange. (1) Upon such approval, articles of merger, articles of consolidation, or articles of exchange shall be executed in duplicate by each corporation by one of the officers of each corporation, and shall set forth:

(a) The plan of merger or the plan of consolidation.

(b) As to each corporation, the number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(c) As to each corporation, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

(d) As to the acquiring corporation in a plan of exchange, a statement that the adoption of the plan and performance of its terms were duly approved by its board of directors and such other requisite corporate action, if any, as may be required of it.

(2) Duplicate originals of the articles of merger, articles of consolidation, or articles of exchange shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(a) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.

(b) File one of such originals in the secretary of state's office.

(c) Issue a certificate of merger, consolidation, or exchange to which the other original shall be affixed.

(3) The certificate of merger, consolidation, or exchange, together with the duplicate original of the articles of merger, consolidation, or exchange affixed thereto by the secretary of state, shall be returned to the surviving or new or acquiring corporation, or its representative. [1982 c 35 § 25; 1979 c 16 § 37; 1977 ex.s. c 193 § 12; 1965 c 53 § 76.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.20.050 Merger of subsidiary corporation. (1) Any corporation owning at least ninety-five percent of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(a) The name of the subsidiary corporation and the name of the corporation owning at least ninety-five percent of its shares, which is hereinafter designated as the surviving corporation.

(b) The manner and basis of converting the shares of the subsidiary corporation into shares or other securities or obligations of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property.

(2) A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

(3) Articles of merger shall be executed in duplicate by the surviving corporation by one of its officers, and shall set forth:

(a) The plan of merger;

(b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by the surviving corporation; and

(c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

(4) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares duplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(a) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof;

(b) File one of such originals in the secretary of state's office; and

(c) Issue a certificate of merger to which the other original shall be affixed.

(5) The certificate of merger, together with the original of the articles of merger affixed thereto by the secretary of state, shall be returned to the surviving corporation or its representative. [1982 c 35 § 26; 1979 c 16 § 38; 1977 ex.s. c 193 § 13; 1971 ex.s. c 38 § 4; 1965 c 53 § 77.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.20.060 Effect of merger, consolidation, or exchange. A merger, consolidation, or exchange shall become effective upon the filing of the articles of merger, consolidation, or exchange by the secretary of state, or

on such later date, not more than thirty days subsequent to the filing thereof with the secretary of state, as shall be provided for in the plan.

When a merger or consolidation has become effective:

(1) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this title.

(4) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and all and every other interest of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(5) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statement set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this title shall be deemed to be the original articles of incorporation of the new corporation.

When a merger, consolidation, or exchange has become effective, the shares of the corporation or corporations party to the plan that are, under the terms of the plan, to be converted or exchanged, shall cease to exist, in the case of a merger or consolidation, or be deemed to be exchanged in the case of an exchange, and the holders of the shares shall thereafter be entitled only to the

shares, obligations, other securities, cash, or other property into which they shall have been converted or for which they shall have been exchanged, in accordance with the plan, subject to any rights under RCW 23A.24.030. [1982 c 35 § 27; 1979 c 16 § 39; 1965 c 53 § 78.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.20.070 Merger or consolidation of domestic and foreign corporations—Participation in an exchange.

One or more foreign corporations and one or more domestic corporations may be merged or consolidated or participate in an exchange in the following manner, if such merger, consolidation, or exchange is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger, consolidation, or exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and

(c) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this title with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger, consolidation, or exchange, the merger, consolidation, or exchange, may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger, consolidation or exchange. In the event the merger, consolidation, or exchange is abandoned, the parties thereto shall execute a notice of abandonment in

triplicate by an officer for each corporation signing the notice. If the secretary of state finds the notice conforms to law, the secretary of state shall:

- (a) Endorse on each of the originals the word "Filed" and the effective date of the filing thereof;
- (b) File one of the triplicate originals in the secretary of state's office; and
- (c) Issue the other triplicate originals to the respective parties or their representatives. [1982 c 35 § 28; 1979 c 16 § 40; 1965 c 53 § 79.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 23A.28 DISSOLUTION

Sections

23A.28.010	Voluntary dissolution by incorporators.
23A.28.020	Voluntary dissolution by consent of shareholders.
23A.28.030	Voluntary dissolution by act of corporation.
23A.28.040	Filing of statement of intent to dissolve.
23A.28.060	Procedure after filing of statement of intent to dissolve.
23A.28.070	Revocation of voluntary dissolution proceedings by consent of shareholders.
23A.28.080	Revocation of voluntary dissolution proceedings by act of corporation.
23A.28.090	Filing of statement of revocation of voluntary dissolution proceedings.
23A.28.110	Articles of dissolution.
23A.28.120	Filing of articles of dissolution.
23A.28.125	Involuntary dissolution by secretary of state—Conditions—Notice—Certificate of involuntary dissolution. (Effective January 1, 1983.)
23A.28.130	Involuntary dissolution by decree of superior court.
23A.28.250	Survival of remedy after dissolution—Extension of duration of corporation.

23A.28.010 Voluntary dissolution by incorporators.

A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators at any time in the following manner:

(1) Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and shall set forth:

- (a) The name of the corporation.
- (b) The date of issuance of its certificate of incorporation.
- (c) That none of its shares has been issued.
- (d) That the corporation has not commenced business.
- (e) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.
- (f) That no debts of the corporation remain unpaid.
- (g) That a majority of the incorporators elect that the corporation be dissolved.
- (h) If a copy of any revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the articles of dissolution.

(2) Duplicate originals of the articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that the articles of dissolution conform to law, the secretary of state shall, when all requirements have been met as in this title prescribed:

- (a) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.
- (b) File one of such originals in the secretary of state's office.
- (c) Issue a certificate of dissolution to which the other original shall be affixed.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the incorporators or their representatives. Upon the issuance of such certificate of dissolution by the secretary of state, the existence of the corporation shall cease. [1982 c 35 § 29; 1979 c 16 § 45; 1977 ex.s. c 193 § 14; 1965 c 53 § 84.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.020 Voluntary dissolution by consent of shareholders. A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation by one of its officers, which statement shall set forth:

- (1) The name of the corporation;
- (2) The names and respective addresses of its officers;
- (3) The names and respective addresses of its directors;
- (4) A copy of the written consent presented to all shareholders of the corporation; and
- (5) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized. [1982 c 35 § 30; 1977 ex.s. c 193 § 15; 1965 c 53 § 85.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.28.030 Voluntary dissolution by act of corporation. A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.
- (2) Written notice shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this title for the giving of notice of meetings of shareholders, and, whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation.

(3) At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the resolution shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of intent to dissolve shall be executed in duplicate by the corporation by one of its officers, which statement shall set forth:

- (a) The name of the corporation.
- (b) The names and respective addresses of its officers.
- (c) The names and respective addresses of its directors.
- (d) A copy of the resolution adopted by the shareholders authorizing the dissolution of the corporation.
- (e) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class.

(f) The number of shares voted for and against the resolution, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against the resolution, respectively. [1982 c 35 § 31; 1977 ex.s. c 193 § 16; 1965 c 53 § 86.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.040 Filing of statement of intent to dissolve. Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all requirements have been met as in this title prescribed:

- (1) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.
- (2) File one of such originals in the secretary of state's office.
- (3) Return the other original to the corporation or its representative. [1982 c 35 § 32; 1977 ex.s. c 193 § 17; 1965 c 53 § 87.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.060 Procedure after filing of statement of intent to dissolve. After the filing by the secretary of state of a statement of intent to dissolve:

- (1) The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation, and to the department of revenue.
- (2) The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy and discharge its liabilities and obligations and do all

other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests.

(3) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the state and judicial subdivision in which the registered office or principal place of business of the corporation is situated, to have the liquidation continued under the supervision of the court as provided in this title. [1982 c 35 § 33; 1965 c 53 § 89.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.070 Revocation of voluntary dissolution proceedings by consent of shareholders. By the written consent of all of its shareholders, a corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation by one of its officers, which statement shall set forth:

- (1) The name of the corporation;
- (2) The names and respective addresses of its officers;
- (3) The names and respective addresses of its directors;
- (4) A copy of the written consent presented to all shareholders of the corporation revoking such voluntary dissolution proceedings; and
- (5) A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized. [1982 c 35 § 34; 1977 ex.s. c 193 § 18; 1965 c 53 § 90.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.28.080 Revocation of voluntary dissolution proceedings by act of corporation. By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a special meeting of shareholders.
- (2) Written notice, stating that the purpose or one of the purposes of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this title for the giving of notice of special meetings of shareholders.

(3) At such meeting a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon.

(4) Upon the adoption of such resolution, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation by one of its officers, which statement shall set forth:

- (a) The name of the corporation.
- (b) The names and respective addresses of its officers.
- (c) The names and respective addresses of its directors.
- (d) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings.
- (e) The number of shares outstanding.
- (f) The number of shares voted for and against the resolution, respectively. [1982 c 35 § 35; 1977 ex.s. c 193 § 19; 1965 c 53 § 91.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.090 Filing of statement of revocation of voluntary dissolution proceedings. Duplicate originals of the statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

- (1) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.
- (2) File one of such originals in the secretary of state's office.
- (3) Return the other original to the corporation or its representative. [1982 c 35 § 36; 1977 ex.s. c 193 § 20; 1965 c 53 § 92.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.110 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities, and obligations of the corporation have been paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be filed with the secretary of state. Articles of dissolution shall be executed in duplicate by the corporation by one of its officers and shall set forth:

- (1) The name of the corporation.
- (2) That the secretary of state has theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed.
- (3) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.
- (4) If a copy of any revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the articles of dissolution.

(5) That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests.

(6) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit. [1982 c 35 § 37; 1977 ex.s. c 193 § 21; 1965 c 53 § 94.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.
Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.28.120 Filing of articles of dissolution. Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, the secretary of state shall, when all requirements have been met as in this title prescribed:

- (1) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.
- (2) File one of such originals in the secretary of state's office.
- (3) Issue a certificate of dissolution to which the other original shall be affixed.

The certificate of dissolution, together with the original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the filing of the articles of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by shareholders, directors, and officers as provided in this title. [1982 c 35 § 38; 1977 ex.s. c 193 § 22; 1965 c 53 § 95.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.125 Involuntary dissolution by secretary of state—Conditions—Notice—Certificate of involuntary dissolution. (Effective January 1, 1983.) (1) A domestic corporation shall be dissolved by the secretary of state upon the conditions prescribed in this section when:

- (a) The corporation has failed to file or complete the annual report required by this title or to pay the annual license fee required by this title, and a period of nine months has expired since the last day permitted for timely filing or payment, without the corporation having filed or made payment of all required fees and penalties;
- (b) The corporation has failed for a period of thirty days to appoint and maintain a registered agent in this state;
- (c) The corporation has failed for thirty days after change of its registered office or registered agent to file in the office of the secretary of state a statement of such change; or
- (d) The department of revenue has certified to the secretary of state that the corporation has failed to file a tax return and that a period of one year has expired,

since the last day permitted for timely filing, without the corporation's having filed and made payment of all required taxes and penalties.

(2) Prior to dissolving a corporation under subsection (1)(a) of this section, the secretary of state shall give the corporation notice of the corporation's delinquency or omission no later than the end of the sixth month of delinquency, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director of the corporation, as shown by the records of the secretary of state. The notice shall identify the delinquency or omission and shall inform the corporation that the corporation shall be involuntarily dissolved at the expiration of the ninth month of the delinquency or omission, unless the corporation corrects the delinquency or omission. If the ninth month expires and no correction of the delinquency or omission has been made, the secretary of state shall issue a certificate of involuntary dissolution.

(3) A corporation shall not be dissolved under subsection (1)(b) through (d) of this section unless the secretary of state has given the corporation not less than forty-five days notice of its delinquency or omission, by first class mail, postage prepaid, addressed to its registered office, or if there is no registered office, to the last known address of the corporation or any officer or director thereof, as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before dissolution.

(4) When a corporation has given cause for involuntary dissolution and has failed to correct the delinquency or omission as provided in this section, the secretary of state shall dissolve the corporation by filing and issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of involuntary dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another person or corporation after the dissolution.

(5) Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

(6) Prior to such dissolution the corporation's existence will not be affected nor will any of its rights, duties and obligations be impaired, except as otherwise provided in RCW 23A.44.120. [1982 c 35 § 39; 1980 c 99 § 10.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1980 c 99: See note following RCW 23A.40.032.

23A.28.130 Involuntary dissolution by decree of superior court. A corporation may be dissolved involuntarily by a decree of the superior court in an action filed by the attorney general when it is established that:

(1) The corporation procured its articles of incorporation through fraud; or

(2) The corporation has continued to exceed or abuse the authority conferred upon it by law. [1982 c 35 § 40; 1969 ex.s. c 92 § 1; 1965 c 53 § 96.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.28.250 Survival of remedy after dissolution—Extension of duration of corporation. The dissolution of a corporation either: (1) By the issuance of a certificate of voluntary or involuntary dissolution by the secretary of state, or (2) by a decree of court, or (3) by expiration of its period of duration, or (4) by reason of its failure to pay its annual license fee and file its annual report as required by law, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. The directors of any such corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The shareholders, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years after expiration so as to extend its period of duration. If a corporation so amends its articles of incorporation to extend its period of duration and its name or a similar name has been taken or reserved, during the two years, by another person or corporation, the corporation extending its duration shall be required to adopt a name consistent with the requirements of this title and to amend its incorporation documents accordingly. The corporation shall also pay to the state all fees and penalties which would otherwise have been due had the corporate charter not expired. [1982 c 35 § 41; 1980 c 99 § 11; 1965 c 53 § 108.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 23A.32

FOREIGN CORPORATIONS

Sections

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- 23A.32.170 Issuance of certificate of revocation.

Marketing contracts—Application to foreign associations: RCW 24.32.210.

23A.32.050 Application for certificate of authority (as amended by 1982 c 35). A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) If the name of the corporation does not contain the word "corporation", "company", "incorporated", or "limited", or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state.

(3) The date of incorporation and the period of duration of the corporation.

(4) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(5) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any within a class.

(8) A statement that a registered agent has been appointed and the name and address of such agent, and that a registered office exists and the address of such registered office is identical to that of the registered agent.

(9) The number of shares of capital stock which the company is authorized to issue and the par value of each share, and if such shares have no par value, then the value of the assets represented by nonpar shares.

(10) The portion of the capital stock of the company which is represented or to be represented, employed or to be employed in its business transacted or to be transacted in the state of Washington.

(11) The value of the property in or to be brought into, and the amount of capital to be used by the company in the state of Washington and the value of the property and capital owned or used by the company outside of the state of Washington.

(12) The date of the beginning of its current annual accounting period.

(13) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as in this title prescribed.

Such application shall be made in the form prescribed by the secretary of state and shall be executed in duplicate by the corporation by one of its officers.

Such application shall be accompanied by a certificate of good standing which has been issued no more than sixty days before the date of filing of the application for a certificate of authority to do business in this state and has been certified to by the proper officer of

the state or country under the laws of which it is incorporated. [1982 c 35 § 42; 1979 c 16 § 49; 1971 c 22 § 1; 1965 c 53 § 113.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.32.050 Application for certificate of authority (as amended by 1982 c 45). A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) If the name of the corporation does not contain the word "corporation", "company", "incorporated", or "limited", or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state.

(3) The date of incorporation and the period of duration of the corporation.

(4) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(5) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any within a class.

(8) A statement that a registered agent has been appointed and the name and address of such agent, and that a registered office exists and the address of such registered office is identical to that of the registered agent.

(9) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees payable as in this title prescribed.

(10) For any foreign agricultural cooperative association, evidence that the association has complied with the provisions of RCW 24.32.210.

Such application shall be made on forms prescribed and furnished by the secretary of state and shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

Such application shall be accompanied by a certificate of good standing to be certified to by the proper officer of the state or country under the laws of which it is incorporated. [1982 c 45 § 3; 1979 c 16 § 49; 1971 c 22 § 1; 1965 c 53 § 113.]

Reviser's note: RCW 23A.32.050 was amended twice during the 1982 regular session of the legislature, each without reference to the other.

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

23A.32.060 Filing of application for certificate of authority. Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state, together with a copy of the certificate of good standing, duly authenticated by the proper officer of the state or country under the laws of which it is incorporated.

If the secretary of state finds that such application conforms to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(1) Endorse on each of such documents the word "Filed", and the effective date of the filing thereof.

(2) File in the secretary of state's office one of such duplicate originals of the application.

(3) Issue a certificate of authority to transact business in this state to which the other duplicate original application shall be affixed.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1982 c 35 § 43; 1979 c 16 § 50; 1973 c 89 § 1; 1971 c 22 § 2; 1965 c 53 § 114.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.32.070 Effect of filing application for certificate of authority. Upon the filing of an application of authority by the secretary of state, the corporation shall be authorized to transact business in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this title. [1982 c 35 § 44; 1965 c 53 § 115.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.32.072 Notice of due date for payment of annual license fee and filing annual report. Not less than thirty nor more than ninety days prior to July 1 of each year or to the expiration date of any staggered yearly license, the secretary of state shall mail to each foreign corporation qualified to do business in this state, by first class mail addressed to its registered office, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if it shall fail to pay its annual license fee or to file its annual report its certificate of authority to transact business within this state may be revoked. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligations to pay the annual license fees and to obtain or file the annual reports required by this title. [1982 c 35 § 54.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.32.073 Filing and license fees required. (Effective January 1, 1983.) A foreign corporation doing an intrastate business or seeking to do an intrastate business in the state of Washington shall qualify so to do in the manner prescribed in this title and shall pay for the privilege of so doing the filing and license fees prescribed in this title for domestic corporations, including the same fees as are prescribed in chapter 23A.40 RCW for the filing of articles of incorporation of a domestic corporation. The fee shall be computed under RCW 23A.32.077, except that the minimum filing fee shall be one hundred dollars, exclusive of any other fee. Any corporation that employs an increased amount of its capital stock within the state shall pay fees at the same rate upon such increase, and whenever such increase is made such corporation shall file with the secretary of state, in a form prescribed by the secretary of state, a statement showing the amount of such increase. [1982 c 35 § 45; 1981 c 230 § 1; 1979 c 16 § 51.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Doing business without a license a gross misdemeanor: RCW 9.24.040.

23A.32.075 Annual license fees required—When payable. (Effective January 1, 1983.) All foreign corporations doing intrastate business, or hereafter seeking to do intrastate business in this state shall pay for the privilege of doing such intrastate business in this state the same fees as are prescribed for domestic corporations for annual license fees, computed under RCW 23A.32.077. Any such corporation that shall employ an increased amount of its capital stock within this state shall pay license fees upon such increase in the same proportion as provided for payment of license fees by domestic corporations. Such corporations shall file with the secretary of state a statement showing the amount of such increase and shall forthwith pay to the secretary of state the license fee brought about by such increased use of capital represented by its property and business in this state, in addition to any filing or service fees which may apply. All license fees shall be paid on or before the first day of July of each and every year or on the annual license expiration date as the secretary of state may establish under this title. [1982 c 35 § 46; 1981 c 230 § 2; 1979 c 16 § 52.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Doing business without a license a gross misdemeanor: RCW 9.24.040.

23A.32.077 Computation of annual license fees or filing fees. (1) Annual license fees or filing fees for foreign corporations shall be computed upon the portion of capital stock represented or to be represented in the state of Washington compared to the total capital stock of the corporation as follows:

(a) Determining the percentage proportion of gross revenue from Washington, by dividing the gross revenue generated from business done and capital employed in Washington by the total gross revenue of the corporation;

(b) Multiplying the sum determined in (a) of this subsection by the authorized capital of the corporation; and

(c) Applying the license fee due on the sum determined in (b) of this subsection.

(2) The information necessary to compute the fee due for a foreign corporation shall be supplied to the secretary of state in such form as the secretary of state may prescribe, and shall utilize the most recent accounting year information the corporation has available, whether on a fiscal or calendar year basis.

(3) In computing the authorized capital, all shares the foreign corporation is authorized to issue, whether issued or not, shall be included. If the corporation has not determined a value for its nonpar shares and cannot establish a reasonable estimated value for its nonpar shares, such nonpar stock shall be valued at a minimum amount of one dollar. [1982 c 35 § 55.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.32.078 Repealed. (Effective January 1, 1983.)
See Supplementary Table of Disposition of Former RCW Sections, this volume.

23A.32.080 Registered office and registered agent of foreign corporation. Each foreign corporation authorized to transact business in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its place of business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, building address, or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address to be used in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this state, having a business office identical with such registered office. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records.

No foreign corporation authorized to transact business in Washington may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section. [1982 c 35 § 47; 1971 c 22 § 3; 1965 c 53 § 116.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Revocation of certificate of authority—Failure to appoint and maintain a registered office or registered agent: RCW 23A.32.160.

23A.32.090 Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to transact business in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed.

(3) If its registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed in a form prescribed by the secretary of state by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this title, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the state, he or it may change such address and the address of the registered office of any corporation of which he or it is a registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsections (3) or (5) of this section, and it must recite that a copy of the statement has been mailed to the corporation. [1982 c 35 § 48; 1979 c 16 § 54; 1965 c 53 § 117.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Revocation of certificate of authority—Failure to file statement of change of registered office or registered agent: RCW 23A.32.160.

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.32.100 Service of process on foreign corporation. The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to transact business in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or

with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1982 c 35 § 49; 1965 c 53 § 118.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Commencement of actions: Chapter 4.28 RCW.

23A.32.140 Withdrawal of foreign corporation. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) That the corporation is not transacting business in this state.

(3) That the corporation surrenders its authority to transact business in this state.

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(5) A post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on the secretary of state.

(6) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, as of the date of the application.

(7) A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, as of the date of the application.

(8) A statement, expressed in dollars, of the amount of stated capital of the corporation, as of the date of the application.

(9) Such additional information as may be necessary or appropriate in order to enable the secretary of state to

determine and assess any unpaid fees payable by the foreign corporation under this title.

(10) If a copy of a revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the application for withdrawal.

The application for withdrawal shall be made in the form prescribed by the secretary of state and shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee. [1982 c 35 § 50; 1979 c 16 § 55; 1965 c 53 § 122.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.32.150 Filing of application for withdrawal. Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this title, the secretary of state shall, when all fees have been paid as in this title prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals in the secretary of state's office.

(3) Issue a certificate of withdrawal to which the other duplicate original shall be affixed.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the filing of such application of withdrawal, the authority of the corporation to transact business in this state shall cease. [1982 c 35 § 51; 1965 c 53 § 123.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.32.160 Revocation of certificate of authority—Notice. (Effective January 1, 1983.) (1) The certificate of authority of a foreign corporation to transact business in this state shall be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to pay any fees, or penalties prescribed by this title when they have become due and payable, and such delinquency has extended for a period of nine months since the last day for timely payment of required fees; or

(b) The corporation has failed to file or complete any annual report prescribed by this title, and such omission has extended for a period of nine months since the last day for timely filing; or

(c) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this title; or

(d) The corporation has failed, for thirty days after change of its registered office or registered agent, to file in the office of the secretary of state a statement of such change as required by this title; or

(e) The corporation has failed to file in the office of the secretary of state any amendment to its articles of

incorporation or any articles of merger within the time prescribed by this title; or

(f) A misrepresentation has been made of any material matter in any application, report, affidavit or other document submitted by such corporation pursuant to this title; or

(g) The department of revenue has certified to the secretary of state that the corporation has failed to file a tax return and that a period of one year has passed since the last day permitted for timely filing of the return, without the corporation's having filed the return and made payment of all applicable taxes and penalties.

(2) Prior to revoking a certificate of authority under subsection (1) (a) or (b) of this section, the secretary of state shall give the corporation notice of the corporation's delinquency or omission no later than the end of the sixth month of delinquency, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director of the corporation, as shown by the records of the secretary of state. The notice shall identify the delinquency or omission, and shall inform the corporation that its certificate of authority shall be revoked at the expiration of the ninth month of the delinquency or omission, unless it corrects the delinquency or omission. If the ninth month expires and no correction of the delinquency or omission has been made, the secretary of state shall issue a certificate of revocation of the certificate of authority to do business in Washington.

(3) No certificate of authority of a foreign corporation shall be revoked by the secretary of state under subsection (1) (c) through (g) of this section unless (a) the secretary of state shall have given the corporation not less than sixty days notice thereof by mail addressed to its registered office in this state or, if there is no registered office, to the last known address of any officer or director of the corporation, as shown by the records in the office of the secretary of state, and (b) the corporation shall fail prior to revocation to file the required statement of change of registered agent or registered office, or file such articles of amendment or articles of merger, or correct such misrepresentation, delinquency, or omission.

(4) Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

(5) The attorney general may take such action regarding revocation of a certificate of authority as is provided by RCW 23A.28.130 through 23A.28.250, for the involuntary dissolution of a domestic corporation. The procedures of RCW 23A.28.150 shall apply to any action under this section. The clerk of any superior court entering a decree of revocation of a certificate of authority shall file a certified copy, without cost or filing fee, with the office of the secretary of state. [1982 c 35 § 52; 1980 c 99 § 12; 1965 c 53 § 124.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1980 c 99: See note following RCW 23A.40.032.

Amendment to articles of incorporation: RCW 23A.32.110.

Articles of merger: RCW 23A.32.120.

Change of registered office or registered agent: RCW 23A.32.090.

Registered office and registered agent: RCW 23A.32.080.

23A.32.170 Issuance of certificate of revocation.

Upon revoking any such certificate of authority, the secretary of state shall:

- (1) Issue a certificate of revocation in duplicate;
- (2) File one of such certificates in the secretary of state's office;
- (3) Mail the other duplicate certificate to such corporation at its registered office in this state or, if there is no registered office, to the last known address of any officer or director of the corporation, as shown by the records of the secretary of state.

Upon the filing of such certificate of revocation, the authority of the corporation to transact business in this state shall cease. [1982 c 35 § 53; 1965 c 53 § 125.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 23A.36

NONADMITTED ORGANIZATIONS

Sections

23A.36.050 Procedure for service of process.

23A.36.050 Procedure for service of process. Duplicate copies of legal process against said nonadmitted organizations shall be served upon the secretary of state by registered mail. At the time of service the plaintiff shall pay to the secretary of state twenty-five dollars taxable as costs in the action and shall also furnish the secretary of state the home office address of said nonadmitted organization. The secretary of state shall forthwith send one of the copies of process by certified mail to the said nonadmitted organization to its home office. The secretary of state shall keep a record of the day, month, and year of service upon the secretary of state of all legal process. No proceedings shall be had against the nonadmitted organization nor shall it be required to appear, plead or answer until the expiration of forty days after the date of service upon the secretary of state. [1982 c 35 § 56; 1971 ex.s. c 133 § 2; 1965 c 53 § 132.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Commencement of actions: Chapter 4.28 RCW.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

Chapter 23A.40

FEES AND CHARGES

Sections

23A.40.010 Secretary of state to charge and collect.

23A.40.015 Fees for services by secretary of state.

23A.40.020 Fees for filing documents and issuing certificates.

- 23A.40.030 Miscellaneous charges.
 23A.40.032 Initial and annual report—Contents—Filing—Compliance—Violation—Penalty.
 23A.40.035 Notice of due date for payment of annual license fee and filing annual report.
 23A.40.040 Domestic—Fees for filing articles of incorporation and for filing documents increasing capital stock. (Effective January 1, 1983.)
 23A.40.050 Statement of value of nonpar stock—Revaluation—Appeal.
 23A.40.060 Annual license fee payable by domestic corporations. (Effective January 1, 1983.)
 23A.40.070 Penalty for nonpayment of annual license fees—Payment of delinquent fees.
 23A.40.150 Repealed. (Effective January 1, 1983.)

23A.40.010 Secretary of state to charge and collect.

The secretary of state shall charge and collect in accordance with the provisions of this title:

- (1) Fees for filing documents and issuing certificates;
- (2) Miscellaneous charges;
- (3) License fees;
- (4) Penalty fees;
- (5) Other fees as the secretary of state may establish by rule adopted under chapter 34.04 RCW. [1982 c 35 § 57; 1965 c 53 § 134.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.40.015 Fees for services by secretary of state. See RCW 43.07.120.

23A.40.020 Fees for filing documents and issuing certificates. The secretary of state shall charge and collect for:

- (1) Filing articles of amendment or supplemental articles and issuing a certificate of amendment, twenty-five dollars;
- (2) Filing restated articles of incorporation, twenty-five dollars;
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty-five dollars;
- (4) Filing an application to reserve a corporate name, ten dollars;
- (5) Filing a notice of transfer of a reserved corporate name, five dollars;
- (6) Filing a statement of change of address of registered office, revocation, resignation, change of registered agent, affidavit of nonappointment, or any combination of these, five dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the filing of the annual report;
- (7) Filing a statement of the establishment of a series of shares, ten dollars;
- (8) Filing a statement of cancellation of shares, ten dollars;
- (9) Filing a statement of reduction of stated capital, ten dollars;
- (10) Filing a statement of intent to dissolve, no fee;
- (11) Filing a statement of revocation of voluntary dissolution proceedings, no fee;

(12) Filing articles of dissolution, no fee;

(13) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty-five dollars;

(14) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;

(15) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;

(16) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee;

(17) Filing an annual report, five dollars, but a separate fee for filing such report shall not be charged for an annual report filed in conjunction with and part of the same forms or billing for the annual license renewal;

(18) Filing any other statement or report, ten dollars;

(19) Such other filings as are provided for by this title. [1982 c 35 § 58; 1981 c 230 § 3; 1980 c 99 § 13; 1971 ex.s. c 133 § 3; 1969 ex.s. c 83 § 3; 1967 c 190 § 7; 1965 c 53 § 135.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1980 c 99: See note following RCW 23A.40.032.

23A.40.030 Miscellaneous charges. The secretary of state shall charge and collect from every person or domestic and foreign corporation, except corporations organized under the laws of this state for which existing law provides a different fee schedule:

(1) For furnishing a certified copy of any charter document or any other document, instrument, or paper relating to a corporation, five dollars for the certificate, plus twenty cents for each page copied;

(2) For furnishing a certificate, under seal, attesting to the status of a corporation; or any other certificate, five dollars;

(3) For furnishing copies of any document, instrument or paper relating to a corporation, one dollar for the first page and twenty cents for each page copied thereafter;

(4) At the time of any service of process on him as agent of a corporation, twenty-five dollars, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action. [1982 c 35 § 59; 1979 ex.s. c 133 § 1; 1971 ex.s. c 133 § 4; 1965 c 53 § 136.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

23A.40.032 Initial and annual report—Contents—Filing—Compliance—Violation—Penalty. (1) Every domestic corporation organized under this title on or after July 1, 1982, shall file an initial report with the secretary of state within thirty days of the

date its officers are first elected, containing the information described in subsections (2)(a) through (2)(e) of this section.

(2) In addition, every corporation heretofore or hereafter organized under the laws of the territory or state of Washington and every foreign corporation authorized to do business in Washington shall at the time it is required to pay its annual license fee and at such additional times as it may elect, file with the secretary of state an annual report containing, as of the date of execution of the report:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The address of the registered office of the corporation in this state including street and number and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

(c) A brief description of the business, if any, which the corporation is conducting, or, in the case of a foreign corporation, which the corporation is conducting in this state.

(d) The address of the principal place of business of the corporation in the state.

(e) The names and respective addresses of the directors and officers of the corporation.

(3) Every report required by this section shall be executed by an officer or director on behalf of the corporation except that the initial report of a domestic corporation may be executed by an incorporator. If the secretary of state finds that the annual report substantially conforms to law, the secretary of state shall, when all the fees have been paid as in this title described, file the same.

(4) The secretary of state may prescribe, by rule adopted under chapter 34.04 RCW, the form to be used to make the annual report. The secretary of state may provide that correction or updating of information appearing on previous annual filings is sufficient to constitute the current annual filing.

(5) If any corporation shall fail to file or complete a report required by subsection (2) of this section there shall become due and owing to the state of Washington the sum of five dollars per month for each month or part of a month that the annual report is delinquent, to a maximum of fifty dollars, which sum shall be paid to the secretary of state. [1982 c 35 § 12; 1980 c 99 § 9; 1977 ex.s. c 193 § 3; 1973 c 71 § 1; 1971 ex.s. c 133 § 1; 1971 ex.s. c 38 § 6; 1969 ex.s. c 83 § 2; 1967 c 190 § 3; 1965 c 53 § 51. Formerly RCW 23A.08.480.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1980 c 99: "Sections 9, 10, 12, 13, 14, 15, and 16 of this 1980 act shall take effect on January 1, 1981." [1980 c 99 § 17.] Section 9 consists of the amendments to RCW 23A.08.480 which is recodified as RCW 23A.40.032 by 1982 c 35 § 13, section 10 is codified as RCW 23A.28.125, sections 12 and 13 consist of the amendments to RCW 23A.32.160 and 23A.40.020, section 14 is codified as RCW 23A.40.035, section 15 consists of the amendments to RCW 23A.40.070, and section 16 consists of the repeal of RCW 23A.40.075.

23A.40.035 Notice of due date for payment of annual license fee and filing annual report. Not less than thirty nor more than ninety days prior to July 1st of each year or to the expiration date of any staggered yearly license, the secretary of state shall mail to each domestic corporation, at its registered office within the state, by first class mail, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if any domestic corporation shall fail to pay its annual license fee or to file its annual report it shall be dissolved and cease to exist. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligations to pay the annual license fees and to file the annual reports required by this title. [1982 c 35 § 60; 1980 c 99 § 14.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1980 c 99: See note following RCW 23A.40.032.

23A.40.040 Domestics—Fees for filing articles of incorporation and for filing documents increasing capital stock. (Effective January 1, 1983.) Every domestic corporation, except one for which existing law provides a different fee schedule, shall pay for filing of its articles of incorporation a fee of sixty-five dollars for the first fifty thousand dollars or less, of its authorized capital stock; and an additional one dollar and twenty-five cents for each additional one thousand dollars or fraction thereof on all amounts in excess of fifty thousand dollars and not exceeding one million dollars; an additional fifty cents for each additional one thousand dollars or fraction thereof on all amounts in excess of one million dollars, and not exceeding four million dollars; and an additional twenty-five cents for each additional one thousand dollars or fraction thereof on all amounts in excess of four million dollars; but in no case shall the amount exceed seven thousand dollars.

Every domestic corporation, except one for which existing law provides a different fee schedule, desiring to file in the office of the secretary of state, articles amendatory or supplemental articles increasing its capital stock, or certificates of increase of capital stock, shall pay to the secretary of state the fees hereinabove in this section provided, in proportion to such increased capital stock upon the actual amount of such increase, in addition to such other fees as may be due for the filing made. [1982 c 35 § 61; 1977 ex.s. c 193 § 23; 1965 c 53 § 137.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.40.050 Statement of value of nonpar stock—Revaluation—Appeal. In the case of any corporation whose stock is wholly or partly without par value, there shall be filed with the articles of incorporation the statement of one of the incorporators, or other representative of the corporation, stating that, to the best of his knowledge and belief, the value of the assets received and to be received by such corporation in return for the issuance of its nonpar value stock does not exceed a certain sum therein named, and the sum so named in such

statement shall be assumed prima facie as the amount of capitalization represented by such nonpar value stock for the purpose of fixing the filing fees and annual license fees to be paid by such corporation under the laws of this state: *Provided*, That at any time within two years after the filing of such articles of incorporation, the secretary of state may investigate and make a finding as to the value of such assets, and if the value of the assets received in consideration of the issuance of such nonpar value stock is found by him to exceed the amount stated in such statement, such corporation shall pay to the secretary of state the additional filing and license fees payable under the laws of this state, based on the excess of the true valuation, as so found, over the value stated in such statement, together with interest on such additional sum at the rate of eighteen percent per annum from the date when the same became due, such payment to be made within sixty days after notice mailed by the secretary of state addressed to such corporation at its last known address. Such finding of the secretary of state shall be subject to review on such evidence as the parties may submit to the court, if an action for such review be begun by such corporation in the superior court of Thurston county within the sixty days. If such action be begun, such corporation shall be allowed sixty days, after judgment of the court finally adjudging the matter, in which to pay any additional fees that may be payable.

The sum named in any such statement may be increased or reduced by the filing of an amended statement and the payment of a filing fee for such increase or reduction as is required for an increase or reduction of authorized shares for domestic corporations. [1982 c 35 § 62; 1965 c 53 § 138.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.40.060 Annual license fee payable by domestic corporations. (Effective January 1, 1983.) For the privilege of doing business, every corporation organized under the laws of this state, except the corporations for which existing law provides a different fee schedule, shall make and file a statement in the form prescribed by the secretary of state and shall pay an annual license fee each year, on or before the expiration date of its corporate license, to the secretary of state. The secretary of state shall collect, for the use of the state, an annual license fee of forty-five dollars for the first fifty thousand dollars or less of the corporation's authorized capital stock; and an additional sixty-three cents for each additional one thousand dollars or fraction thereof on all amounts in excess of fifty thousand dollars, and not exceeding one million dollars; and an additional twenty-five cents for each additional thousand dollars or fraction thereof on all amounts in excess of one million dollars, and not exceeding four million dollars; and an additional thirteen cents for each additional one thousand dollars or fraction thereof on all amounts in excess of four million dollars; but in no case shall an annual license fee exceed the sum of three thousand five hundred dollars. [1982 c 35 § 63; 1969 ex.s. c 92 § 2; 1965 c 53 § 139.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Doing business without a license a gross misdemeanor: RCW 9.24.040.

23A.40.070 Penalty for nonpayment of annual license fees—Payment of delinquent fees. In the event any corporation, foreign or domestic, shall do business in this state without having paid its annual license fee when due, there shall become due and owing the state of Washington a penalty. For corporations with one hundred thousand dollars or less authorized capital, the penalty shall be five dollars per month for each month or part of a month that the license fee remains unpaid to a maximum of fifty dollars. For corporations with more than one hundred thousand dollars authorized capital, the penalty shall be fifteen percent per month of the license fee, computed from the date the license fee should have been paid.

A corporation organized under this title may at any time prior to its dissolution as provided in RCW 23A-.28.125, and a foreign corporation qualified to do business in this state may at any time prior to the revocation of its certificate of authority as provided in RCW 23A-.32.160, pay to the state of Washington its current annual license fee, provided it also pays an amount equal to all previously unpaid annual license fees plus the penalty specified in this section. [1982 c 35 § 64; 1980 c 99 § 15; 1969 ex.s. c 92 § 3; 1965 c 53 § 140.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1980 c 99: See note following RCW 23A.40.032.
Doing business without a license a gross misdemeanor: RCW 9.24.040.

23A.40.150 Repealed. (Effective January 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 23A.44

MISCELLANEOUS PROVISIONS

Sections

23A.44.010	Failure to answer interrogatories—Unauthorized signature or actions—Penalties.
23A.44.020	Interrogatories by secretary of state.
23A.44.040	Power and authority of secretary of state.
23A.44.050	Appeal from secretary of state.
23A.44.060	Certificates and certified copies to be received in evidence.
23A.44.146	Effect of repeal of prior law—Corporations in existence on July 1, 1967—Payment for shares—Construction.

23A.44.010 Failure to answer interrogatories—Unauthorized signature or actions—Penalties. (1) Each officer and director of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this title to answer truthfully and fully interrogatories propounded to him by the secretary of state in accordance with the provisions of this title, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon

conviction thereof may be fined in any amount not exceeding five hundred dollars.

(2) Each person who signs any articles, statement, report, application, or other document filed with the secretary of state which the person is not authorized to sign, or which would cause the secretary of state to apply a fee, issue a certificate, renew a license, or take other official action that would not be appropriate had all the facts been known to the secretary of state, shall be liable for a civil penalty not to exceed two hundred dollars. The secretary of state shall assess the penalty by issuing a notice of penalty to the person, by first class mail, postage prepaid, addressed to the last address of the person as shown in the secretary of state's records. The person receiving such notice may respond to the secretary of state within fifteen days of the person's receipt of the notice. After consideration of any response and the circumstances presented, the secretary of state may affirm or rescind the penalty in whole or in part. The secretary of state shall mail notice of the action taken to the person. If the action taken is to affirm the penalty, the penalty shall be due and payable within thirty days after notice of action taken. Judicial review of any final order of penalty assessment shall be available under the provisions of RCW 34.04.130.

The attorney general may bring suit to recover any unpaid penalties in the superior court of Thurston county, and may recover, in addition to the usual allowable costs, reasonable attorney's fees incurred in bringing the action.

All penalties assessed under this section shall be deposited in the general fund by the secretary of state. [1982 c 35 § 65; 1965 c 53 § 148.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Involuntary dissolution—Procuring articles of incorporation through fraud: RCW 23A.28.130.

Revocation of certificate of authority—Misrepresentation in any application, report, affidavit: RCW 23A.32.160.

23A.44.020 Interrogatories by secretary of state. The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this title, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether such corporation has complied with all the provisions of this title applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by him, and if directed to a corporation they shall be answered by the president, vice president, secretary or assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with the provisions of this title. The secretary

of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this title. [1982 c 35 § 66; 1965 c 53 § 149.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.44.040 Power and authority of secretary of state. (1) The secretary of state shall have the power and authority reasonably necessary to enable the secretary of state to administer this title efficiently and to perform the duties therein imposed upon the secretary of state.

(2) The secretary of state shall have the authority to promulgate rules under chapter 34.04 RCW, to provide guidance for procedures to be followed by applicants, criteria for name availability, general information and guidelines, fee schedules, public information availability, and such other matters as are provided by statute or are necessary, useful, and appropriate to effectively and reasonably administer the corporations laws, both profit and nonprofit, of this state.

(3) The secretary of state shall, if the efficient operation of the corporations division of the office of the secretary of state requires, have the power and authority to their [there] use and employ from time to time such additional equipment and personnel as, in the secretary of state's judgment, are required for that purpose. [1982 c 35 § 67; 1965 c 53 § 151.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.44.050 Appeal from secretary of state. If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this title to be approved by the secretary of state before the same shall be filed, the secretary of state shall, within ten days after the delivery thereof to the secretary of state, give written notice of the disapproval to the person or corporation, domestic or foreign, delivering the same, and specifying the reasons therefor. From such disapproval such person or corporation may appeal to the superior court of the county in which the registered office of such corporation is, or is proposed to be, situated by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.

If the secretary of state shall revoke the certificate of authority to transact business in this state of any foreign corporation, pursuant to the provisions of this title, such foreign corporation may likewise appeal to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in this state

and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the superior court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions. [1982 c 35 § 68; 1965 c 53 § 152.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.44.060 Certificates and certified copies to be received in evidence. All certificates issued by the secretary of state in accordance with the provisions of this title, and all copies of documents filed in the secretary of state's office in accordance with the provisions of this title when certified by the secretary of state under the seal of the state of Washington, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the seal of this state, as to the existence or nonexistence of the facts relating to corporations shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated. [1982 c 35 § 69; 1965 c 53 § 153.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

23A.44.146 Effect of repeal of prior law—Corporations in existence on July 1, 1967—Payment for shares—Construction. The enactment of chapter 53, Laws of 1965, and the repeal of any prior act thereby, shall not, with respect to any corporation in existence on July 1, 1967: Limit or deny the right of any shareholder to demand and receive payment for his shares by reason of any corporate action, unless the shareholder and other holders of shares of the same class are entitled to vote as a class with respect to such corporate action under RCW 23A.16.030: *Provided, however,* That such right to demand and receive payment for shares shall be treated as a right to dissent, to be exercised and disposed of in accordance with RCW 23A.24.040, and to be denied with respect to those certain sales and mergers with respect to which RCW 23A.24.030 expressly denies the right to dissent. The foregoing are declared to be among the rights accrued, acquired or established within the meaning of RCW 23A.44.145. [1982 c 35 § 70; 1969 ex.s. c 58 § 4.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

**Chapter 23A.98
CONSTRUCTION**

Sections

23A.98.030 No impairment of state obligation as evidenced by bonds.

23A.98.030 No impairment of state obligation as evidenced by bonds. Nothing contained in this title as now or hereafter amended shall be construed as an impairment of any obligation of the state as evidenced by bonds held for any purpose, and subsections (2) and (13) of RCW 23A.40.020, subsections (1) and (2) of RCW 23A.40.030, and RCW 23A.40.040, 23A.40.050, 23A.40.060, 23A.40.070, 23A.40.080, 23A.40.090, 23A.32.073 and 23A.32.075 shall be deemed to be a continuation of chapter 70, Laws of 1937, as amended, for the purpose of payment of:

(1) world's fair bonds authorized by chapter 174, Laws of 1957 as amended by chapter 152, Laws of 1961, and

(2) outdoor recreation bonds authorized by referendum bill number 11 (chapter 12, Laws of 1963 extraordinary session), approved by the people on November 3, 1964. [1982 c 35 § 71; 1979 c 16 § 59; 1965 c 53 § 165.]

Reviser's note: "chapter 70, Laws of 1937, as amended" imposing corporation fees and penalties was codified in chapters 23.52 and 23.60 RCW, which chapters were subsequently repealed by 1965 c 53.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Outdoor recreation bonds: Chapter 43.98 RCW.

Title 24

**CORPORATIONS AND ASSOCIATIONS
(NONPROFIT)**

Chapters

- 24.03** Washington nonprofit corporation act.
- 24.06** Nonprofit miscellaneous and mutual corporations act.
- 24.12** Corporations sole.
- 24.20** Fraternal societies.
- 24.24** Building corporations composed of fraternal society members.
- 24.28** Granges.
- 24.32** Agricultural cooperative associations.
- 24.36** Fish marketing act.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Chapter 24.03

WASHINGTON NONPROFIT CORPORATION ACT

Sections

- 24.03.005 Definitions.
- 24.03.017 Corporation may elect to have chapter apply to it—Procedure.
- 24.03.020 Incorporators.
- 24.03.025 Articles of incorporation.
- 24.03.043 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.
- 24.03.045 Corporate name.
- 24.03.046 Reservation of exclusive right to use a corporate name.
- 24.03.047 Registration of corporate name.
- 24.03.048 Renewal of registration of corporate name.
- 24.03.050 Registered office and registered agent.
- 24.03.055 Change of registered office or registered agent.
- 24.03.060 Service of process on corporation.

24.03.145	Filing of articles of incorporation.
24.03.150	Effect of filing the articles of incorporation.
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24.03.300	Survival of remedy after dissolution—Extension of duration of corporation.
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24.03.315	Corporate name of foreign corporation—Fictitious name.
24.03.330	Filing of application for certificate of authority.
24.03.335	Effect of certificate of authority.
24.03.340	Registered office and registered agent of foreign corporation.
24.03.345	Change of registered office or registered agent of foreign corporation.
24.03.350	Service of process on foreign corporation.
24.03.370	Withdrawal of foreign corporation.
24.03.375	Filing of application for withdrawal.
24.03.380	Revocation of certificate of authority—Notice.
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24.03.395	Annual report of domestic and foreign corporations.
24.03.400	Filing of annual report of domestic and foreign corporations.
24.03.405	Fees for filing documents and issuing certificates.
24.03.410	Miscellaneous charges.
24.03.417	Fees for services by secretary of state.
24.03.430	Interrogatories by secretary of state.
24.03.435	Confidential nature of information disclosed by interrogatories.
24.03.440	Power and authority of secretary of state.
24.03.445	Appeal from secretary of state.
24.03.450	Certificates and certified copies to be received in evidence.
24.03.915	Notice to existing corporations.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.03.005 Definitions. As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(3) "Not for profit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(4) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(6) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

(7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(8) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(9) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(10) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined that the document complies as to form with the applicable requirements of this chapter.

(11) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.

(12) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the document submission with the secretary of state.

(13) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation. [1982 c 35 § 72; 1967 c 235 § 2.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.017 Corporation may elect to have chapter apply to it—Procedure. Any corporation organized under any act of the state of Washington for any one or more of the purposes for which a corporation may be organized under this chapter and for no purpose other than those permitted by this chapter, and to which this chapter does not otherwise apply, may elect to have this chapter and the provisions thereof apply to such corporation. Such corporation may so elect by having a resolution to do so adopted by the governing body of such corporation and by delivering to the secretary of state a statement of election in accordance with this section. Such statement of election shall be executed in duplicate by the corporation by an officer of the corporation, and shall set forth:

(1) The name of the corporation;

(2) The act which created the corporation or pursuant to which it was organized;

(3) That the governing body of the corporation has elected to have this chapter and the provisions thereof apply to said corporation.

Duplicate originals of such statement of election shall be delivered to the secretary of state. If the secretary of state finds that the statement of election conforms to law, the secretary of state shall, when fees in the same amount as required by this chapter for filing articles of incorporation have been paid, endorse on each of such duplicates the word "filed" and the effective date of the filing thereof, shall file one of such duplicate originals, and shall issue a certificate of elective coverage to which the other duplicate original shall be affixed.

The certificate of elective coverage together with the duplicate original affixed thereto by the secretary of state shall be returned to the corporation or its representative. Upon the filing of the statement of elective coverage, the provisions of this chapter shall apply to said corporation which thereafter shall be subject to and shall have the benefits of this chapter and the provisions thereof as they exist on the date of filing such statement of election and as they may be amended from time to time thereafter, including, without limiting the generality of the foregoing, the power to amend its charter or articles of incorporation, whether or not created by special act of the legislature, delete provisions therefrom and add provisions thereto in any manner and to any extent it may choose to do from time to time so long as its amended articles shall not be inconsistent with the provisions of this chapter. [1982 c 35 § 73; 1971 ex.s. c 53 § 2.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.020 Incorporators. One or more persons may incorporate a corporation by signing and delivering articles of incorporation in duplicate to the secretary of state. [1982 c 35 § 74; 1967 c 235 § 5.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.025 Articles of incorporation. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated number of years.
- (3) The purpose or purposes for which the corporation is organized.
- (4) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets on dissolution or final liquidation.

(5) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(6) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(7) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

(8) The name of any persons or corporations to whom net assets are to be distributed in the event the corporation is dissolved. [1982 c 35 § 75; 1967 c 235 § 6.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Amending articles of incorporation: RCW 24.03.160 through 24.03.180.

Bylaws: RCW 24.03.070.

24.03.043 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

24.03.045 Corporate name. The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any act of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following: (a) The written consent of the other corporation or holder of a reserved name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not include or end with "incorporated," "company" or "corporation" or any abbreviation thereof, but may use "club," "league," "association," "services," "committee," "fund," "society," "foundation," "-----," a nonprofit corporation," or any name of like import. [1982 c 35 § 76; 1967 c 235 § 10.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Corporate name of foreign corporation: RCW 24.03.315.

24.03.046 Reservation of exclusive right to use a corporate name. The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing and one renewal for a like period.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee. [1982 c 35 § 77.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.047 Registration of corporate name. Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state a registration fee in the amount of one dollar for each month, or fraction thereof, between the date of filing the application and December thirty-first of the calendar year in which the application is filed.

The registration shall be effective until the close of the calendar year in which the application for registration is filed. [1982 c 35 § 78.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.048 Renewal of registration of corporate name.

A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of ten dollars. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year. [1982 c 35 § 79.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.050 Registered office and registered agent.

Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office. The registered agent and registered office shall be designated by duly adopted resolution of the board of directors; and a statement of such designation, executed by an officer of the corporation, together with a copy of the board of directors' designating resolution, shall be filed with the secretary of state. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state

until the corporation complies with the requirements of this section. [1982 c 35 § 80; 1969 ex.s. c 163 § 1; 1967 c 235 § 11.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.055 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in the form prescribed by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed, including street and number.

(3) If its registered agent is to be changed, the name of its successor registered agent:

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall file such statement, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1982 c 35 § 81; 1967 c 235 § 12.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.060 Service of process on corporation. The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In

the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1982 c 35 § 82; 1967 c 235 § 13.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.145 Filing of articles of incorporation. Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed" and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of incorporation to which the other duplicate original shall be affixed.

The certificate of incorporation together with the duplicate original of the articles of incorporation affixed thereto by the secretary of state, shall be returned to the incorporators or their representative. [1982 c 35 § 83; 1967 c 235 § 30.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.150 Effect of filing the articles of incorporation. Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter, except as against the state in a proceeding to cancel or revoke the certificate of incorporation. [1982 c 35 § 84; 1967 c 235 § 31.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.170 Articles of amendment. The articles of amendment shall be executed in duplicate by the corporation by an officer of the corporation, and shall set forth:

(1) The name of the corporation.

(2) The amendment so adopted.

(3) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such

amendment received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(4) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office. [1982 c 35 § 85; 1967 c 235 § 35.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.175 Filing of articles of amendment. Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of amendment to which the other duplicate original shall be affixed.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1982 c 35 § 86; 1967 c 235 § 36.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Fees: RCW 24.03.405, 24.03.410.

24.03.180 Effect of filing of articles of amendment. Upon the filing of the articles of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason. [1982 c 35 § 87; 1967 c 235 § 37.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.183 Restated articles of incorporation. A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of the resolution, restated articles of incorporation shall be executed in duplicate by the corporation by one of its officers and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement

that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

(1) Endorse on each duplicate original the word "Filed" and the effective date of the filing thereof;

(2) File one duplicate original; and

(3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto. [1982 c 35 § 88.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.200 Articles of merger or consolidation. (1) Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by an officer of each corporation, and shall set forth:

(a) The plan of merger or the plan of consolidation;

(b) Where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (i) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (ii) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto;

(c) Where any merging or consolidating corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(2) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(a) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof;

(b) File one of such duplicate originals;

(c) Issue a certificate of merger or a certificate of consolidation to which the other duplicate original shall be affixed.

The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative. [1982 c 35 § 89; 1967 c 235 § 41.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.205 Merger or consolidation—Time effected. Upon the filing of the articles of merger, or the articles of consolidation by the secretary of state, the merger or consolidation shall be effected. [1982 c 35 § 90; 1967 c 235 § 42.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.207 Merger or consolidation of domestic and foreign corporation—Participation in an exchange. One or more foreign corporations and one or more domestic corporations may be merged or consolidated or participate in an exchange in the following manner, if such merger, consolidation, or exchange is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger, consolidation, or exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to the merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and

(c) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this title with respect to the rights of dissenting shareholders.

The effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of the

merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except as the laws of the other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger, consolidation, or exchange, the merger, consolidation, or exchange, may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger, consolidation or exchange. In the event the merger, consolidation, or exchange is abandoned, the parties thereto shall execute a notice of abandonment in triplicate signed by an officer for each corporation signing the notice. If the secretary of state finds the notice conforms to law, the secretary of state shall:

(a) Endorse on each of the originals the word "Filed" and the effective date of the filing;

(b) File one of the triplicate originals in the secretary of state's office; and

(c) Issue the other triplicate originals to the respective parties or their representatives. [1982 c 35 § 91.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.220 Voluntary dissolution. A corporation may dissolve and wind up its affairs in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation and to the department of revenue, and shall proceed to collect its assets and apply and distribute them as provided in this chapter. [1982 c 35 § 92; 1967 c 235 § 45.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.240 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall

have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate by the corporation by an officer of the corporation and shall set forth:

(1) The name of the corporation.

(2) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(3) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(5) If a copy of any revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the articles of dissolution.

(6) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter.

(7) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit. [1982 c 35 § 93; 1967 c 235 § 49.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.245 Filing of articles of dissolution. Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, the secretary of state shall, when all requirements have been met as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of dissolution to which the other duplicate original shall be affixed.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the filing of such articles of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in this chapter. [1982 c 35 § 94; 1967 c 235 § 50.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.255 Notification to attorney general. The secretary of state shall certify, from time to time, the names of all corporations which have given cause for dissolution as provided in RCW 24.03.250, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general shall file an action in the name of the state against such corporation for its dissolution. [1982 c 35 § 95; 1969 ex.s. c 163 § 3; 1967 c 235 § 52.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.300 Survival of remedy after dissolution—Extension of duration of corporation. The dissolution of a corporation either (1) by the filing and issuance of a certificate of dissolution, voluntary or involuntary, by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years after expiration so as to extend its period of duration. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation extending its period of duration shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. The corporation shall also pay to the state all fees and penalties which would otherwise have been due if the corporate charter had not expired, plus a reinstatement fee of twenty-five dollars. [1982 c 35 § 96; 1967 c 235 § 61.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.302 Grounds for corporation ceasing to exist—Notice—Reinstatement—Corporate

name—Survival of actions. A corporation shall be dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

- (1) Has failed to file or complete its annual report within the time required by law; or
- (2) Has failed for thirty days to appoint or maintain a registered agent in this state; or
- (3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than forty-five days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the forty-five day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of the state shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of involuntary dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its dissolution if it shall file or complete its annual report or if it shall appoint or maintain a registered agent, or if it shall file with the secretary of state a required statement of change of registered agent or registered office and in addition, if it shall pay a reinstatement fee of twenty-five dollars plus any other fees that may be due and owing the secretary of state. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter

and to amend its articles of incorporation accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided in RCW 24.03.300 and the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and members. [1982 c 35 § 97; 1971 ex.s. c 128 § 1; 1969 ex.s. c 163 § 9.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.315 Corporate name of foreign corporation—Fictitious name. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.03.045. However, a foreign corporation applying for a certificate of authority may file with the secretary of state a resolution of its board of directors adopting a fictitious name for use in transacting business in this state, if the fictitious name complies with RCW 24.03.045. [1982 c 35 § 98; 1967 c 235 § 64.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Registration of corporate name: RCW 24.03.047.

Reservation of exclusive right to use a corporate name: RCW 24.03.046.

24.03.330 Filing of application for certificate of authority. Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state together with a certificate of good standing which has been issued within the previous sixty days and certified to by the proper officer of the state or country under the laws of which it is incorporated.

If the secretary of state finds that such application conforms to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such documents the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which the other duplicate original application shall be affixed.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1982 c 35 § 99; 1969 ex.s. c 163 § 4; 1967 c 235 § 67.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.335 Effect of certificate of authority. Upon the filing of the application for certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as

provided in this chapter. [1982 c 35 § 100; 1967 c 235 § 68.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.03.340 Registered office and registered agent of foreign corporation. Each foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section. [1982 c 35 § 101; 1967 c 235 § 69.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.03.345 Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed.

(3) If its registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall file such statement, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1982 c 35 § 102; 1967 c 235 § 70.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.03.350 Service of process on foreign corporation. The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of

state under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1982 c 35 § 103; 1967 c 235 § 71.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.03.370 Withdrawal of foreign corporation. A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) That the corporation is not conducting affairs in this state.

(3) That the corporation surrenders its authority to conduct affairs in this state.

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(5) If a copy of a revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the application for withdrawal.

(6) A post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on the secretary of state.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee. [1982 c 35 § 104; 1967 c 235 § 75.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.03.375 Filing of application for withdrawal. Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this chapter, the secretary of state shall, when all requirements have been met as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of withdrawal to which the other duplicate original shall be affixed.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed

thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the filing of such application of withdrawal, the authority of the corporation to conduct affairs in this state shall cease. [1982 c 35 § 105; 1967 c 235 § 76.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

~~Fees: RCW 24.03.405.~~

24.03.380 Revocation of certificate of authority—Notice. The certificate of authority of a foreign corporation to conduct affairs in this state shall be revoked by the secretary of state upon the conditions prescribed in this section when:

(1) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or

(2) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or

(3) The corporation has failed, for thirty days after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change as required by this chapter; or

(4) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or

(5) The certificate of authority of the corporation was procured through fraud practiced upon the state; or

(6) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(7) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this chapter.

No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless the secretary of state shall have given the corporation not less than sixty days' notice thereof by first class mail addressed to its registered office in this state, or, if there is no registered office, to the last known address of any officer or director of the corporation as shown by the records of the secretary of state, and the corporation shall fail prior to revocation to file such annual report, or pay such fees or penalties, or file the required statement of change of registered agent, or file such articles of amendment or articles of merger, or correct such misrepresentation, delinquency, or omission.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution. [1982 c 35 § 106; 1967 c 235 § 77.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.03.385 Issuance of certificate of revocation. Upon revoking any certificate of authority under RCW 24.03.380, the secretary of state shall:

- (1) Issue a certificate of revocation in duplicate.
- (2) File one of such certificates.
- (3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates.

Upon the filing of such certificate of revocation, the authority of the corporation to conduct affairs in this state shall cease. [1982 c 35 § 107; 1967 c 235 § 78.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.395 Annual report of domestic and foreign corporations. Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report in the form prescribed by the secretary of state setting forth:

- (1) The name of the corporation and the state or country under the laws of which it is incorporated.
- (2) The address of the registered office of the corporation in this state including street and number and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.
- (3) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state.
- (4) The names and respective addresses of the directors and officers of the corporation.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may by rule adopted under chapter 34.04 RCW provide that correction or updating of information appearing on previous annual filings is sufficient to constitute the current annual filing. [1982 c 35 § 108; 1967 c 235 § 80.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.400 Filing of annual report of domestic and foreign corporations. Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, or on an annual renewal date as the secretary of state may establish. Proof to the satisfaction of the secretary of state that prior to the corporation's annual renewal date the annual report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the secretary of state finds that such report substantially conforms to the requirements of this chapter, the secretary

of state shall file the same. [1982 c 35 § 109; 1973 c 90 § 1; 1967 c 235 § 81.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.405 Fees for filing documents and issuing certificates. The secretary of state shall charge and collect for:

- (1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.
- (2) Filing articles of amendment or restatement and issuing a certificate of amendment or a restated certificate of incorporation, ten dollars.
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.
- (4) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, affidavit of nonappointment, or any combination of these, five dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to articles of incorporation or in conjunction with the filing of the annual report.
- (5) Filing articles of dissolution, no fee.
- (6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.
- (7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, ten dollars.
- (8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.
- (9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.
- (10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.
- (11) Filing a certificate by a foreign corporation of the appointment of a registered agent, five dollars. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the filing of the annual report.
- (12) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, five dollars. A separate fee for filing such a certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the filing of the annual report.
- (13) Filing a certificate of election adopting the provisions of chapter 24.03 RCW, twenty dollars.
- (14) Filing an application to reserve a corporate name, ten dollars.
- (15) Filing a notice of transfer of a reserved corporate name, five dollars.
- (16) Filing any other statement or report, including an annual report, of a domestic or foreign corporation,

five dollars. [1982 c 35 § 110; 1981 c 230 § 5; 1969 ex.s. c 163 § 5; 1967 c 235 § 82.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.410 Miscellaneous charges. The secretary of state shall charge and collect:

(1) For furnishing a certified copy of any charter document or any other document, instrument, or paper relating to a corporation, five dollars for the certificate, plus twenty cents for each page copied.

(2) For furnishing a certificate, under seal, attesting to the status of a corporation; or any other certificate, five dollars.

(3) For furnishing copies of any document, instrument or paper relating to a corporation, one dollar for the first page and twenty cents for each page copied thereafter.

(4) At the time of any service of process on him as registered agent of a corporation, twenty-five dollars, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action. [1982 c 35 § 111; 1979 ex.s. c 133 § 2; 1969 ex.s. c 163 § 6; 1967 c 235 § 83.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

24.03.417 Fees for services by secretary of state. See RCW 43.07.120.

24.03.430 Interrogatories by secretary of state. The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether such corporation has complied with all the provisions of this chapter applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by him, and if directed to a corporation they shall be answered by the president, vice president, secretary or assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with the provisions of this chapter. The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter. [1982 c 35 § 112; 1967 c 235 § 87.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.435 Confidential nature of information disclosed by interrogatories. Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection nor shall the secretary of state disclose any facts or information obtained therefrom except in so far as the secretary of state's official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceedings or in any other action by this state. [1982 c 35 § 113; 1967 c 235 § 88.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.440 Power and authority of secretary of state. The secretary of state shall have the power and authority reasonably necessary for the efficient and effective administration of this chapter, including the adoption of rules under chapter 34.04 RCW. [1982 c 35 § 114; 1967 c 235 § 89.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Power and authority of secretary of state: RCW 23A.44.040.

24.03.445 Appeal from secretary of state. If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall, within ten days after the delivery thereof to the office of the secretary of state, give written notice of disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the superior court of the county in which the registered office of such corporation is, or is proposed to be, situated by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.

If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, pursuant to the provisions of this chapter, such foreign corporation may likewise appeal to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the superior court under this section in review of any ruling or decision of the secretary of state may be taken

as in other civil actions. [1982 c 35 § 115; 1967 c 235 § 90.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.450 Certificates and certified copies to be received in evidence. All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of documents filed in the office of the secretary of state in accordance with the provisions of this chapter when certified by the secretary of state under the seal of the state, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated. [1982 c 35 § 116; 1967 c 235 § 91.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.03.915 Notice to existing corporations. (1) The secretary of state shall notify all existing nonprofit corporations thirty days prior to the effective date of this chapter, that in the event they fail to appoint a registered agent as provided in *this 1969 amendatory act within ninety days following the effective date of *this 1969 amendatory act, they shall thereupon cease to exist.

(2) If the notification provided under subsection (1) of this section, from the secretary of state to any corporation was or has been returned unclaimed or undeliverable, the secretary of state shall proceed to dissolve the corporation by striking the name of such corporation from the records of active corporations.

(3) Corporations dissolved under subsection (2) of this section may be reinstated at any time within three years of the dissolution action by the secretary of state. The corporation shall be reinstated by filing a request for reinstatement, by appointment of a registered agent and designation of a registered office as required by this chapter, and by filing an annual report for the reinstatement year. No fees may be charged for reinstatements under this section. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. [1982 c 35 § 117; 1969 ex.s. c 163 § 8; 1967 c 235 § 98.]

***Reviser's note:** "this 1969 amendatory act" consists of RCW 24.03.302 and the 1969 amendments to RCW 24.03.050, 24.03.250, 24.03.255, 24.03.330, 24.03.405, 24.03.410, 24.03.420, 24.03.915.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1969 ex.s. c 163: August 11, 1969, see preface to 1969 session laws.

Effective date—1967 c 235: See RCW 24.03.925.

Chapter 24.06

NONPROFIT MISCELLANEOUS AND MUTUAL CORPORATIONS ACT

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24.06.005 Definitions. As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a mutual corporation or miscellaneous corporation subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a mutual or miscellaneous corporation or other corporation organized under laws other than the laws of this state which would be subject to the provisions of this chapter if organized under the laws of this state.

(3) "Mutual corporation" means a corporation organized to accomplish one or more of its purposes on a mutual basis for members and other persons.

(4) "Miscellaneous corporation" means any corporation which is organized for a purpose or in a manner not provided for by the Washington business corporation act or by the Washington nonprofit corporation act, and which is not required to be organized under other laws of this state.

(5) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.

(6) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(7) "Member" means one having membership rights in a corporation in accordance with provisions of its articles of incorporation or bylaws.

(8) "Stock" or "share" means the units into which the proprietary interests of a corporation are divided in a corporation organized with stock.

(9) "Stockholder" or "shareholder" means one who is a holder of record of one or more shares in a corporation organized with stock.

(10) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(11) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(12) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(13) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined the document complies as to form with the applicable requirements of this chapter.

(14) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the

secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.

(15) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the document submission with the secretary of state.

(16) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation. [1982 c 35 § 118; 1969 ex.s. c 120 § 1.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.020 Incorporators. One or more individuals, partnerships, corporations or governmental bodies or agencies may incorporate a corporation by signing and delivering articles of incorporation in duplicate to the secretary of state. [1982 c 35 § 119; 1969 ex.s. c 120 § 4.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.025 Articles of incorporation. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated number of years.
- (3) The purpose or purposes for which the corporation is organized.
- (4) The qualifications and the rights and responsibilities of the members and the manner of their election, appointment or admission to membership and termination of membership; and, if there is more than one class of members or if the members of any one class are not equal, the relative rights and responsibilities of each class or each member.

(5) If the corporation is to have capital stock:

(a) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value;

(b) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class;

(c) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the

relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;

(d) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

(6) If the corporation is to distribute surplus funds to its members, stockholders or other persons, provisions for determining the amount and time of the distribution.

(7) Provisions for distribution of assets on dissolution or final liquidation.

(8) Whether a dissenting shareholder or member shall be limited to a return of less than the fair value of his shares or membership.

(9) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.

(10) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(11) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(12) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling. [1982 c 35 § 120; 1969 ex.s. c 120 § 5.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.043 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

24.06.045 Corporate name. The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation existing under any act of this state, or any foreign corporation authorized to transact business or conduct affairs in this state under any act of this state or a corporate name reserved or registered as permitted by the laws of this state. This subsection shall not apply if the applicant files with the secretary of state either of the following: (a) The written consent of the other corporation or holder of a reserved

name to use the same or deceptively similar name and one or more words are added or deleted to make the name distinguishable from the other name as determined by the secretary of state, or (b) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this state.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

(4) The name of any corporation formed under this section shall not include nor end with "incorporated", "company", or "corporation" or any abbreviation thereof, but may use "club", "league", "association", "services", "committee", "fund", "society", "foundation", "-----", a nonprofit mutual corporation", or any name of like import. [1982 c 35 § 121; 1973 c 113 § 1; 1969 ex.s. c 120 § 9.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Corporate name of foreign corporation: RCW 24.06.350.

24.06.046 Reservation of exclusive right to use corporate name. The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing and one renewal for a like period.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee. [1982 c 35 § 122.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.047 Registration of corporate name. Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the

laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state a registration fee in the amount of one dollar for each month, or fraction thereof, between the date of filing the application and December thirty-first of the calendar year in which the application is filed.

The registration shall be effective until the close of the calendar year in which the application for registration is filed. [1982 c 35 § 123.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.048 Renewal of registration of corporate name.

A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of ten dollars. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year. [1982 c 35 § 124.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.050 Registered office and registered agent.

Each domestic corporation and foreign corporation authorized to do business in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation existing under any act of this state or a foreign corporation authorized to transact business or conduct affairs in this state under any act of this state having an office identical with such registered office. The resident agent and registered office shall be designated by duly adopted resolution of the board of directors; and a statement of such designation, executed by an officer of the corporation, together with a copy of the board of directors' designating resolution, shall be filed with the secretary of state. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section. [1982 c 35 § 125; 1969 ex.s. c 120 § 10.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.055 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement in the form prescribed by the secretary of state setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed, including street and number.

(3) If its registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered office to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall file such statement, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an

officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1982 c 35 § 126; 1969 ex.s. c 120 § 11.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.060 Service of process on corporation. The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of his or her office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1982 c 35 § 127; 1969 ex.s. c 120 § 12.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.170 Filing of articles of incorporation. Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he or she shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such originals the word "filed" and the effective date of the filing thereof.

(2) File one of such originals in his or her office.

(3) Issue a certificate of incorporation to which he or she shall affix one of such originals.

The certificate of incorporation together with the original of the articles of incorporation affixed thereto by the secretary of state shall be returned to the incorporators or their representatives and shall be retained by the corporation. [1982 c 35 § 128; 1981 c 302 § 5; 1969 ex.s. c 120 § 34.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 302: See note following RCW 19.76.100.

24.06.175 Effect of filing of articles of incorporation. Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall, except as against the state in a proceeding to cancel or revoke the certificate of incorporation, be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter. [1982 c 35 § 129; 1969 ex.s. c 120 § 35.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.195 Articles of amendment. The articles of amendment shall be executed in duplicate originals by the corporation by an officer of the corporation, and shall set forth:

(1) The name of the corporation.

(2) Any amendment so adopted.

(3) A statement setting forth the date of the meeting of members and shareholders at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members or shareholders of the corporation, and of each class entitled to vote thereon as a class, present at such meeting in person, by mail, or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members and shareholders entitled to vote with respect thereto. [1982 c 35 § 130; 1981 c 302 § 6; 1969 ex.s. c 120 § 39.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 302: See note following RCW 19.76.100.

24.06.200 Filing of articles of amendment—Procedure. Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he or she shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such originals the word "filed", and the effective date of the filing thereof.

(2) File one of such originals in his or her office.

(3) Issue a certificate of amendment to which he or she shall affix one of such originals.

The certificate of amendment, together with the other duplicate original of the articles of amendment affixed thereto by the secretary of state shall be returned to the corporation or its representative and shall be retained by the corporation. [1982 c 35 § 131; 1981 c 302 § 7; 1969 ex.s. c 120 § 40.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 302: See note following RCW 19.76.100.

24.06.205 When amendment becomes effective—Existing actions and rights not affected. Upon the filing of the articles of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, nor any pending action to which such corporation shall be a party, nor the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason. [1982 c 35 § 132; 1969 ex.s. c 120 § 41.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.207 Restated articles of incorporation. A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of the resolution, restated articles of incorporation shall be executed in duplicate by the corporation by one of its officers and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

- (1) Endorse on each duplicate original the word "Filed" and the effective date of the filing thereof;
- (2) File one duplicate original; and
- (3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto. [1982 c 35 § 133.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.225 Articles of merger or consolidation. (1) Upon approval, articles of merger or articles of consolidation shall be executed in duplicate originals by each corporation, by an officer of each corporation, and shall set forth:

- (a) The plan of merger or the plan of consolidation;

- (b) A statement setting forth the date of the meeting of members or shareholders at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members and shareholders of the corporation and of each class entitled to vote thereon as a class, present at such meeting in person or by mail or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members;

- (2) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he or she shall, when all fees have been paid as prescribed in this chapter:

- (a) Endorse on each of such originals the word "filed", and the effective date of the filing thereof;
- (b) File one of such originals in his or her office;
- (c) Issue a certificate of merger or a certificate of consolidation to which he or she shall affix one of such originals.

The certificate of merger or certificate of consolidation, together with the original of the articles of merger or articles of consolidation affixed thereto by the secretary of state shall be returned to the surviving or new corporation, as the case may be, or its representative, and shall be retained by the corporation. [1982 c 35 § 134; 1981 c 302 § 8; 1969 ex.s. c 120 § 45.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 302: See note following RCW 19.76.100.

24.06.230 Merger or consolidation—When effected. Upon the filing of articles of merger, or the articles of consolidation by the secretary of state, the merger or consolidation shall be effected. [1982 c 35 § 135; 1969 ex.s. c 120 § 46.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.233 Merger or consolidation of domestic and foreign corporation—Participation in an exchange. One or more foreign corporations and one or more domestic corporations may be merged or consolidated or participate in an exchange in the following manner, if such merger, consolidation, or exchange is permitted by the laws of the state under which each such foreign corporation is organized:

- (1) Each domestic corporation shall comply with the provisions of this title with respect to the merger, consolidation, or exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

- (2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and

(c) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this title with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger, consolidation, or exchange, the merger, consolidation, or exchange, may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger, consolidation, or exchange. In the event the merger, consolidation, or exchange is abandoned, the parties thereto shall execute a notice of abandonment in triplicate signed by an officer for each corporation signing the notice. If the secretary of state finds the notice conforms to law, the secretary of state shall:

(a) Endorse on each of the originals the word "Filed" and the effective date of the filing thereof;

(b) File one of the triplicate originals in the secretary of state's office; and

(c) Issue the other triplicate originals to the respective parties or their representatives. [1982 c 35 § 136.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.260 Voluntary dissolution. A corporation may dissolve and wind up its affairs in the following manner:

(1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members and shareholders which may be either an annual or a special meeting.

(2) Written or printed notice stating that the purpose or one of the purposes of such meeting is to consider the advisability of dissolving the corporation shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders.

(3) A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by

mail at such meeting or represented by proxy are entitled to cast.

Upon the adoption of such resolution by the members and shareholders, the corporation shall cease to conduct its affairs and, except insofar as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation and to the department of revenue, and shall proceed to collect its assets and to apply and distribute them as provided in RCW 24.06-.265. [1982 c 35 § 137; 1969 ex.s. c 120 § 52.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.275 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then after all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate by the corporation, by an officer of the corporation; and such statement shall set forth:

(1) The name of the corporation.

(2) The date of the meeting of members or shareholders at which the resolution to dissolve was adopted, certifying that:

(a) A quorum was present at such meeting;

(b) Such resolution received at least two-thirds of the votes which members and shareholders present in person or by mail at such meeting or represented by proxy were entitled to cast or was adopted by a consent in writing signed by all members and shareholders;

(c) All debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;

(d) All the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter;

(e) There are no suits pending against the corporation in any court or, if any suits are pending against it, that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered; and

(f) If a copy of any revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the articles of dissolution. [1982 c 35 § 138; 1969 ex.s. c 120 § 55.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.280 Filing of articles of dissolution. Duplicate originals of articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he or she shall, when all requirements have been met as prescribed in this chapter:

(1) Endorse on each of such originals the word "filed", and the effective date of the filing thereof.

(2) File one of the originals in his or her office.

(3) Issue a certificate of dissolution which he or she shall affix to one of such originals.

The certificate of dissolution, together with the original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation and shall be retained with the corporation minutes.

Upon the filing of the articles of dissolution, the corporate existence shall cease, except for the purpose of determining such suits, other proceedings and appropriate corporate action by members, directors and officers as are authorized in this chapter. [1982 c 35 § 139; 1981 c 302 § 9; 1969 ex.s. c 120 § 56.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

~~Severability—1981 c 302: See note following RCW 19.76.100.~~

24.06.285 Involuntary dissolution. A corporation may be dissolved by decree of the superior court in an action filed on petition of the attorney general upon a showing that:

(1) The corporation procured its articles of incorporation through fraud; or

(2) The corporation has continued to exceed or abuse the authority conferred upon it by law. [1982 c 35 § 140; 1969 ex.s. c 120 § 57.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.06.290 Proceedings for involuntary dissolution—Rights, duties, and remedies. Failure of the corporation to file its annual report within the time required shall not derogate from the rights of its creditors, or prevent the corporation from being sued and from defending lawsuits, nor shall it release the corporation from any of the duties or liabilities of a corporation under law.

A corporation shall be dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

(1) Has failed to file or complete its annual report within the time required by law;

(2) Has failed for thirty days to appoint or maintain a registered agent in this state; or

(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than forty-five days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the forty-five day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of state shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of involuntary dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its dissolution if it shall file or complete its annual report, appoint and maintain a registered agent, or file a required statement of change of registered agent or registered office and in addition pay a reinstatement fee of twenty-five dollars plus any other fees that may be due or owing the secretary of state. If during the period of dissolution another person or corporation has reserved or adopted a corporate name which is identical or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided by RCW 24.06.335 and thereafter the directors of the corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders. [1982 c 35 § 141; 1973 c 70 § 1; 1969 ex.s. c 120 § 58.]

~~Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.~~

24.06.335 Survival of remedies after dissolution. The dissolution of a corporation whether (1) by the filing and issuance of a certificate of dissolution, voluntary or involuntary, by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, members, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years from the date of dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name and capacity. The members, shareholders, directors, and officers shall have power to take such corporate or other action as

shall be appropriate to protect any remedy, right, or claim. If the corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during the two years following dissolution, in order to extend its period of duration. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation extending its period of duration shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. The corporation shall also pay to the state all fees and penalties which would otherwise have been due if the corporate charter had not expired, plus a reinstatement fee of twenty-five dollars. [1982 c 35 § 142; 1969 ex.s. c 120 § 67.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.350 Corporate name of foreign corporation. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.06.045. However, a foreign corporation applying for a certificate of authority may file with the secretary of state a resolution of its board of directors adopting a fictitious name for use in transacting business in this state, if the fictitious name complies with RCW 24.06.045. [1982 c 35 § 143; 1969 ex.s. c 120 § 70.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Registration of corporate name: RCW 24.06.047.

Reservation of exclusive right to use corporate name: RCW 24.06.046.

24.06.360 Certificate of authority—Application for, contents. A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) The date of incorporation and the period of duration of the corporation.

(3) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(4) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

(5) For the purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state.

(8) For any foreign agricultural cooperative association, evidence that the association has complied with the

provisions of RCW 24.32.210. [1982 c 45 § 2; 1969 ex.s. c 120 § 72.]

24.06.365 Filing of application for certificate of authority—Issuance. Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state together with a certificate of good standing which has been issued within the previous sixty days and certified to by the proper officer of the state or county under the laws of which it is incorporated.

If the secretary of state finds that such application conforms to law, he or she shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such documents the word "filed", and the effective date thereof.

(2) File in his or her office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which the other duplicate original application shall be affixed.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1982 c 35 § 144; 1969 ex.s. c 120 § 73.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.370 Effect of filing application for certificate of authority. Upon the filing of the application for certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application: *Provided*, That the state may suspend or revoke such authority as provided in this chapter for revocation and suspension of domestic corporation franchises. [1982 c 35 § 145; 1969 ex.s. c 120 § 74.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.380 Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, such new address.

(3) If its registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(5) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation, by an officer of the corporation, and delivered to the

secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, he or she shall file such statement in his or her office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective. [1982 c 35 § 146; 1969 ex.s. c 120 § 76.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.395 Service of process upon secretary of state.

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this action, and shall record therein the time of such service and his or her action with reference thereto: *Provided*, That nothing contained in this section shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1982 c 35 § 147; 1969 ex.s. c 120 § 79.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.415 Withdrawal of foreign corporation. A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, the foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

- (1) The name of the corporation and the state or country under whose laws it is incorporated.
- (2) A declaration that the corporation is not conducting affairs in this state.
- (3) A surrender of its authority to conduct affairs in this state.

(4) A notice that the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding, based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state, may thereafter be made upon such corporation by service thereof on the secretary of state.

(5) If a copy of any revenue clearance form under chapter 82.32 RCW is issued, it shall be attached to the application for withdrawal.

(6) A post office address to which the secretary of state may mail a copy of any process that may be served on the secretary of state as agent for the corporation.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation, by one of the officers of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee. [1982 c 35 § 148; 1969 ex.s. c 120 § 83.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.420 Filing of application for withdrawal—Issuance of certificate of withdrawal. Duplicate originals of an application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this chapter, the secretary of state shall, when all requirements have been met as prescribed in this chapter:

- (1) Endorse on each of such duplicate originals the word "filed", and the effective date of the filing thereof.
- (2) File one of such duplicate originals.
- (3) Issue a certificate of withdrawal to which the other duplicate original shall be fixed.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the filing of such application of withdrawal, the authority of the corporation to conduct affairs in this state shall cease. [1982 c 35 § 149; 1969 ex.s. c 120 § 84.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.425 Revocation of certificate of authority. (1) The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

- (a) The corporation has failed to file its annual report within the time required by this chapter or has failed to pay any fees or penalties prescribed by this chapter as they become due and payable; or
- (b) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or
- (c) The corporation has failed, for thirty days after change of its registered agent or registered office, to file

in the office of the secretary of state a statement of such change as required by this chapter; or

(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or

(e) The certificate of authority of the corporation was procured through fraud practiced upon the state; or

(f) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(g) A misrepresentation has been made as to any material matter in any application, report, affidavit, or other document, submitted by such corporation pursuant to this chapter.

(2) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless the secretary of state shall have given the corporation not less than sixty days' notice thereof by first class mail addressed to its registered office in this state, or, if there is no registered office, to the last known address of any officer or director of the corporation as shown by the records of the secretary of state, and the corporation shall have failed prior to revocation to (a) file such annual report, (b) pay such fees or penalties, (c) file the required statement of change of registered agent or registered office, (d) file such articles of amendment or articles of merger, or (e) correct any delinquency, omission, or material misrepresentation in its application, report, affidavit, or other document. [1982 c 35 § 150; 1969 ex.s. c 120 § 85.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.430 Issuance and filing of certificate of revocation—Effect. Upon revoking any certificate of authority under RCW 24.06.425, the secretary of state shall:

(1) Issue a certificate of revocation in duplicate.

(2) File one of such certificates.

(3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of the two certificates of revocation.

Upon filing of the certificate of revocation, the corporate authority to conduct affairs in this state shall cease. [1982 c 35 § 151; 1969 ex.s. c 120 § 86.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.440 Annual report of domestic and foreign corporations. Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report in the form prescribed by the secretary of state setting forth:

(1) The name of the corporation and the state or country under whose laws it is incorporated.

(2) The address of the registered office of the corporation in this state, including street and number, the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of

its principal office in the state or country under whose laws it is incorporated.

(3) A brief statement of the character of the affairs in which the corporation is engaged, or, in the case of a foreign corporation, engaged in this state.

(4) The names and respective addresses of the directors and officers of the corporation.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may by rule adopted under chapter 34.04 RCW provide that correction or updating of information appearing on previous annual filings is sufficient to constitute the current annual filing. [1982 c 35 § 152; 1969 ex.s. c 120 § 88.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.445 Filing of annual report of domestic and foreign corporations. An annual report of each domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year or on such annual renewal date as the secretary of state may establish. Proof to the satisfaction of the secretary of state that the report was deposited in the United States mails, in a sealed envelope, properly addressed to the secretary of state, with postage prepaid thereon, prior to the corporation's annual renewal date, shall be deemed compliance with this requirement.

If the secretary of state finds that a report substantially conforms to the requirements of this chapter, the secretary of state shall file the same. [1982 c 35 § 153; 1973 c 146 § 1; 1969 ex.s. c 120 § 89.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.450 Fees for filing documents and issuing certificates. The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.

(2) Filing articles of amendment or restatement and issuing a certificate of amendment or a restated certificate of authority, ten dollars.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, affidavit of nonappointment, or any combination of these, five dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(5) Filing articles of dissolution, no fee.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, ten dollars.

(8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

(11) Filing a certificate by a foreign corporation of the appointment of a registered agent, five dollars. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(12) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, five dollars. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(13) Filing an application to reserve a corporate name, ten dollars.

(14) Filing a notice of transfer of a reserved corporate name, five dollars.

(15) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, five dollars. [1982 c 35 § 154; 1981 c 230 § 6; 1973 c 70 § 2; 1969 ex.s. c 120 § 90.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.455 Miscellaneous charges. The secretary of state shall charge and collect in advance:

(1) For furnishing a certified copy of any charter document or any other document, instrument or paper relating to a corporation, five dollars for the certificate, plus twenty cents for each page copied.

(2) For furnishing a certificate, under seal, attesting to the status of a corporation; or any other certificate, five dollars.

(3) For furnishing copies of any document, instrument or paper relating to a corporation, one dollar for the first page and twenty cents for each page copied thereafter.

(4) At the time of any service of process on him as resident agent of any corporation, twenty-five dollars, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action. [1982 c 35 § 155; 1979 ex.s. c 133 § 3; 1973 c 70 § 3; 1969 ex.s. c 120 § 91.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

24.06.460 Disposition of fees. Any money received by the secretary of state under the provisions of this chapter shall be deposited forthwith into the state treasury as provided by law. [1982 c 35 § 156; 1969 ex.s. c 120 § 92.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.462 Fees for services by secretary of state. See RCW 43.07.120.

24.06.475 Interrogatories by secretary of state. The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof such interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether such corporation has complied with all of the provisions of this chapter applicable to such corporation. All such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete, made in writing, and under oath. If such interrogatories are directed to an individual, they shall be answered personally by him, and if directed to the corporation they shall be answered by the president, a vice president, a secretary or any assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories are answered as required by this section, and even not then if the answers thereto disclose that the document is not in conformity with the provisions of this chapter.

The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter. [1982 c 35 § 157; 1969 ex.s. c 120 § 95.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.480 Confidential nature of information disclosed by interrogatories. Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection, nor shall the secretary of state disclose any facts or information obtained therefrom unless (1) his or her official duty may require that the same be made public, or (2) such interrogatories or the answers thereto are required for use in evidence in any criminal proceedings or other action by the state. [1982 c 35 § 158; 1969 ex.s. c 120 § 96.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.485 Power and authority of secretary of state. The secretary of state shall have all power and authority

reasonably necessary for the efficient and effective administration of this chapter, including the adoption of rules under chapter 34.04 RCW. [1982 c 35 § 159; 1969 ex.s. c 120 § 97.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.
Power and authority of secretary of state: RCW 23A.44.040.

24.06.490 Appeal from secretary of state's actions.

(1) If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation, or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall, within ten days after the delivery of such document to him or her, give written notice of disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. The person or corporation may apply to the superior court of the county in which the registered office of such corporation is situated, or is proposed, in the document, by filing a petition with the clerk of such court setting forth a copy of the articles or other document tendered to the secretary of state, together with a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(2) If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, such foreign corporation may likewise apply to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(3) Appeals from all final orders and judgments entered by the superior court under this section, in the review of any ruling or decision of the secretary of state may be taken as in other civil actions. [1982 c 35 § 160; 1969 ex.s. c 120 § 98.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.495 Certificates and certified copies to be received in evidence. All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of documents filed in the office of the secretary of state in accordance with the provisions of this chapter when certified by the secretary of state under the seal of the state, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified

copy of any of the foregoing documents or certificates, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated. [1982 c 35 § 161; 1969 ex.s. c 120 § 99.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.520 Reinstatement and renewal of corporate existence—Fee. If the term of existence of a corporation which was organized under this chapter, or which has availed itself of the privileges thereby provided expires, such corporation shall have the right to renew within two years of the expiration of its term of existence. The corporation may renew the term of its existence for a definite period or perpetually and be reinstated under any name not then in use by or reserved for a domestic corporation organized under any act of this state or a foreign corporation authorized under any act of this state to transact business or conduct affairs in this state. To do so the directors, members and officers shall adopt amended articles of incorporation containing a certification that the purpose thereof is a reinstatement and renewal of the corporate existence. They shall proceed in accordance with the provisions of this chapter for the adoption and filing of amendments to articles of incorporation. Thereupon such corporation shall be reinstated and its corporate existence renewed as of the date on which its previous term of existence expired and all things done or omitted by it or by its officers, directors, agents and members before such reinstatement shall be as valid and have the same legal effect as if its previous term of existence had not expired.

A corporation reinstating under this section shall pay to the state all fees and penalties which would have been due if the corporate charter had not expired, plus a reinstatement fee of twenty-five dollars. [1982 c 35 § 162; 1969 ex.s. c 120 § 106.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.900 Short title. This chapter shall be known and may be cited as the "Nonprofit Miscellaneous and Mutual Corporation Act". [1982 c 35 § 163; 1969 ex.s. c 120 § 104.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.06.915 Notice to existing corporations. (1) The secretary of state shall notify all existing miscellaneous and mutual corporations thirty days prior to the date this chapter becomes effective as to their requirements for filing an annual report.

(2) If the notification provided under subsection (1) of this section, from the secretary of state to any corporation was or has been returned unclaimed or undeliverable, the secretary of state shall proceed to dissolve the corporation by striking the name of such corporation from the records of active corporations.

(3) Corporations dissolved under subsection (2) of this section may be reinstated at any time within three years

of the dissolution action by the secretary of state. The corporation shall be reinstated by filing a request for reinstatement, by appointment of a registered agent and designation of a registered office as required by this chapter, and by filing an annual report for the reinstatement year. No fees may be charged for reinstatements under this section. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. [1982 c 35 § 164; 1969 ex.s. c 120 § 109.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Effective date—1969 ex.s. c 120: See RCW 24.06.920.

Chapter 24.12 CORPORATIONS SOLE

Sections

- 24.12.025 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.
24.12.050 Fees for services by secretary of state.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.12.025 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

24.12.050 Fees for services by secretary of state. See RCW 43.07.120.

Chapter 24.20 FRATERNAL SOCIETIES

Sections

- 24.20.020 Filing fee.
24.20.025 Fees for services by secretary of state.
24.20.035 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.20.020 Filing fee. The secretary of state shall file such articles of incorporation in his office and issue a certificate of incorporation to any such lodge or other society upon the payment of the sum of twenty dollars. [1982 c 35 § 165; 1903 c 80 § 2; RRS § 3866.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.20.025 Fees for services by secretary of state. See RCW 43.07.120.

24.20.035 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

Chapter 24.24

BUILDING CORPORATIONS COMPOSED OF FRATERNAL SOCIETY MEMBERS

Sections

- 24.24.010 Who may incorporate—Filing fee.
24.24.015 Fees for services by secretary of state.
24.24.100 Fees.
24.24.120 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.24.010 Who may incorporate—Filing fee. Any ten or more residents of this state who are members of any chartered body or of different chartered bodies of any fraternal order or society who shall desire to incorporate for the purpose of owning real or personal property or both real and personal property for the purpose and for the benefit of such bodies, may make and execute articles of incorporation, which shall be executed in duplicate, and shall be subscribed by each of the persons so associating themselves together: *Provided*, That no lodge shall be incorporated contrary to the provisions of the laws and regulations of the order or society of which it is a constituent part. Such articles, at the election of the incorporators, may either provide for the issuing of capital stock or for incorporation as a society of corporation without shares of stock. One of such articles shall be filed in the office of the secretary of state, accompanied by a filing fee of twenty dollars, and the other of such articles shall be preserved in the records of the corporation. [1982 c 35 § 166; 1981 c 302 § 12; 1927 c 190 § 1; RRS § 3887-1.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Severability—1981 c 302: See note following RCW 19.76.100.

24.24.015 Fees for services by secretary of state. See RCW 43.07.120.

24.24.100 Fees. The secretary of state shall file such articles of incorporation or amendment thereto in his office and issue a certificate of incorporation or amendment, as the case may be, to such fraternal association upon the payment of a fee in the sum of twenty dollars. [1982 c 35 § 167; 1927 c 190 § 10; RRS § 3887-10.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

24.24.120 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

Chapter 24.28

GRANGES

Sections

- 24.28.035 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.
 24.28.050 Fees for services by secretary of state.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.28.035 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

24.28.050 Fees for services by secretary of state. See RCW 43.07.120.

Chapter 24.32

AGRICULTURAL COOPERATIVE ASSOCIATIONS

Sections

- 24.32.055 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.
 24.32.210 Marketing contracts—Application to foreign associations.
 24.32.415 Fees for services by secretary of state.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.32.055 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

24.32.210 Marketing contracts—Application to foreign associations. The association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. Any party to such a contract shall have the right to terminate it at the end of the tenth or any subsequent year after its effective date by giving the other parties to the contract notice of termination in the manner and at the time specified by the contract, but if such contract does not provide for such notice then by giving the other parties not less than sixty days advance notice of such termination. The contract may provide that the association may sell or resell the products of its members, with or without taking title thereto; and pay over on a proportional basis or otherwise to its members the resale price, after deducting all necessary selling, overhead and other costs and expenses, including interest on preferred stock, not exceeding eight percent per annum, and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight percent per annum on common stock: *Provided*, That the form of such contract shall be approved by the director of agriculture, who

may require that such contract set the maximum amount of any such reserves to be deducted from the sale price of the products of the members of such association: *Provided, further*, That in contracts involving the marketing of an annual crop, the director of agriculture may require that said contract shall contain a date upon which settlement will be made between the association and each of its members for the crop or product marketed by said association. The bylaws and the marketing contract may fix as liquidated damages specific sums to be paid by the member or stockholder to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees in case any action is legally maintained under the contract by the association; and any such provisions shall be valid and enforceable in the courts of this state. In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and after notice and hearing, to a temporary injunction against the member.

This section applies to both (1) domestic agricultural cooperative associations organized under this chapter, and (2) foreign agricultural cooperative associations seeking a certificate of authority to conduct affairs in this state, including but not limited to those seeking such authority under chapter 24.06 RCW. [1982 c 45 § 1; 1959 c 132 § 4; 1931 c 16 § 7; 1927 c 138 § 1; 1921 c 115 § 15; RRS § 2892. Formerly RCW 24.32.210 through 24.32.230.]

24.32.415 Fees for services by secretary of state. See RCW 43.07.120.

Chapter 24.36

FISH MARKETING ACT

Sections

- 24.36.055 Fees for services by secretary of state.
 24.36.315 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

24.36.055 Fees for services by secretary of state. See RCW 43.07.120.

24.36.315 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

**Title 25
PARTNERSHIPS**

Chapters

25.10 Limited partnerships.

Chapter 25.10

LIMITED PARTNERSHIPS

Sections

- 25.10.010 Definitions.
- 25.10.075 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025.
- 25.10.130 Filing in office of secretary of state.
- 25.10.310 Interim distributions.
- 25.10.605 Fees for services by secretary of state.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

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

(1) "Certificate of limited partnership" or "certificate" means the certificate referred to in RCW 25.10.080, and the certificate as amended.

(2) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in RCW 25.10.230.

(4) "Foreign limited partnership" means a partnership formed under laws other than the laws of this state and having as partners one or more general partners and one or more limited partners.

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement and named in the certificate of limited partnership as a limited partner.

(7) "Limited partnership" and "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(8) "Partner" means a limited or general partner.

(9) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(11) "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(13) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined the document complies as to form with the applicable requirements of this chapter.

(14) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date. [1982 c 35 § 177; 1981 c 51 § 1.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

25.10.075 Indemnification of agents of any corporation authorized—Application of RCW 23A.08.025. See RCW 23A.08.026.

25.10.130 Filing in office of secretary of state. (1) Two signed copies of the certificate of limited partnership and of any certificates of amendment or cancellation (or of any judicial decree of amendment or cancellation) shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law the secretary of state shall:

(a) Endorse on each duplicate original the word "Filed" and the effective date of the filing;

(b) File one duplicate original; and

(c) Return the other duplicate original to the person who filed it or the person's representative.

(2) Upon the filing of a certificate of amendment, or judicial decree of amendment, in the office of the secretary of state, the certificate of limited partnership shall be amended as set forth therein, and upon the effective date of a certificate of cancellation or a judicial decree thereof, the certificate of limited partnership is canceled. [1982 c 35 § 178; 1981 c 51 § 13.]

Reviser's note: The effective date for 1981 c 51 § 13 is October 1, 1982; see RCW 25.10.650. The effective date for 1982 c 35 § 178 is July 1, 1982; see note following RCW 43.07.160.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

25.10.310 Interim distributions. Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before his withdrawal from the limited partnership and before the dissolution and winding up thereof:

(1) To the extent and at the times or upon the happening of the events specified in the partnership agreement; and

(2) If any distribution constitutes a return of any part of his contribution under RCW 25.10.380(3), to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership. [1982 c 35 § 179; 1981 c 51 § 31.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

25.10.605 Fees for services by secretary of state. See RCW 43.07.120.

Title 26

DOMESTIC RELATIONS

Chapters

26.40 Handicapped children.

26.44 Abuse of children and adult developmentally disabled—Protection—Procedure.

Council on child abuse and neglect: Chapter 43.121 RCW.

Chapter 26.40

HANDICAPPED CHILDREN

Sections

26.40.060 Notice, copies, filing of order of commitment.

Council on child abuse and neglect: Chapter 43.121 RCW.

26.40.060 Notice, copies, filing of order of commitment. Upon the issuance of an order for the commitment of a child to custody, the court shall transmit copies thereof to the co-custodians named therein. For the state as co-custodian the copy of such order shall be filed with the department of social and health services whose duty it shall be to notify the state superintendent of public instruction, the state department of social and health services, and such other state departments or agencies as may have services for the child, of the filing of such order, which notice shall be given by the department of social and health services at the time commitment to custody becomes effective under the order. [1982 c 35 § 195; 1979 c 141 § 35; 1955 c 272 § 6.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Chapter 26.44

ABUSE OF CHILDREN AND ADULT DEVELOPMENTALLY DISABLED—PROTECTION—PROCEDURE

Sections

26.44.020 Definitions.
26.44.030 Reports—Duty and authority to make—Duty of receiving agency.
26.44.056 Protective detention of abused child—Reasonable cause—Notice—Time limits.
26.44.060 Immunity from civil or criminal liability—Confidential communications not violated—Actions against state not affected.
26.44.080 Violation—Penalty.

Council on child abuse and neglect: Chapter 43.121 RCW.

26.44.020 Definitions. For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a duly accredited Christian Science practitioner: *Provided, however,* That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social worker" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Child abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed thereby. An abused child is a child who has been subjected to child abuse or neglect as defined herein: *Provided*, That this subsection shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare, and safety.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult developmentally disabled persons not able to provide for their own protection through the criminal justice system" shall be defined as those persons over the age of eighteen years with developmental disabilities who have been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter, that such protection is indicated: *Provided*, That no persons reporting injury, abuse, or neglect to an adult developmentally disabled person as defined herein shall suffer negative consequences if such a judicial determination of incompetency or disability has not taken place and the person reporting believes in good faith that the adult developmentally disabled person needs the protection offered by this chapter.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by state law by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. [1982 c 129 § 6; 1981 c 164 § 1; 1977 ex.s. c 80 § 25; 1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—**Intent**—**Severability**—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.030 Reports—Duty and authority to make—Duty of receiving agency. (1) When any practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of the department has reasonable cause to believe that a child or adult developmentally disabled person has suffered abuse or neglect, he shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040. The report shall be made at the first

opportunity, but in no case longer than seven days after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

(2) Any other person who has reasonable cause to believe that a child or adult developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040 as now or hereafter amended.

(3) The department upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult developmentally disabled person who has died or has had physical injury or injuries inflicted upon him other than by accidental means or who has been subjected to sexual abuse shall report such incident to the proper law enforcement agency.

(4) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult developmentally disabled person who has died or has had physical injury or injuries inflicted upon him other than by accidental means, or who has been subjected to sexual abuse, shall report such incident to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime has been committed. [1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—**Intent**—**Severability**—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.056 Protective detention of abused child—Reasonable cause—Notice—Time limits. An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety: *Provided*, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays. [1982 c 129 § 8; 1975 1st ex.s. c 217 § 9.]

Severability—1982 c 129: See note following RCW 9A.04.080.

26.44.060 Immunity from civil or criminal liability—Confidential communications not violated—

Actions against state not affected. (1) Any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60-.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW. [1982 c 129 § 9; 1975 1st ex.s. c 217 § 6; 1965 c 13 § 6.]

Severability—1982 c 129: See note following RCW 9A.04.080.

26.44.080 Violation—Penalty. Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a gross misdemeanor. [1982 c 129 § 10; 1971 ex.s. c 167 § 3.]

Severability—1982 c 129: See note following RCW 9A.04.080.

Title 27

LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

Chapters

- 27.12 Public libraries.
- 27.18 Interstate library compact.
- 27.60 1989 Washington centennial.

Archaeology and historic preservation, office of: Chapter 43.51A RCW.

Historic preservation officer, state: RCW 43.51A.060.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 27.12

PUBLIC LIBRARIES

Sections

- 27.12.010 Definitions.
- 27.12.190 Library trustees—Appointment, election, removal, compensation.
- 27.12.210 Library trustees—Organization—Bylaws—Powers and duties.
- 27.12.220 Rural, island, and intercounty rural districts—Budget for capital outlays—Accumulation of funds.
- 27.12.222 Rural, island, and intercounty rural districts—Bonds—Excess levies.
- 27.12.320 Dissolution—Disposition of property.
- 27.12.360 Annexation of city or town into rural county library district, island library district, or intercounty rural library district—Initiation procedure.

- 27.12.370 Annexation of city or town into library district—Special election procedure.
- 27.12.380 Annexation of city or town into library district—Withdrawal of annexed city or town.
- 27.12.390 Annexation of city or town into library district—Tax levies.
- 27.12.400 Island library districts—Establishment—Procedure.
- 27.12.410 Island library districts—Restrictions on establishment.
- 27.12.420 Island library districts—Board of trustees—Tax levies.
- 27.12.430 Island library districts—Name may be adopted.
- 27.12.440 Island library districts—Powers and limitations for indebtedness.
- 27.12.450 Island library districts—Dissolution, when.

Certain library records exempt from public inspection: RCW 42.17.310.

27.12.010 Definitions. As used in this chapter and chapter 27.08 RCW, unless the context requires a different meaning:

(1) "Governmental unit" means any county, city, town, rural county library district, intercounty rural library district, or island library district;

(2) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit; in rural county library districts, in intercounty rural library districts, and in island library districts, the legislative body shall be the board of library trustees of the district;

(3) "Library" means a free public library supported in whole or in part with money derived from taxation; and

(4) "Regional library" means a free public library maintained by two or more counties or other governmental units as provided in RCW 27.12.080; and

(5) "Rural county library district" means a library serving all the area of a county not included within the area of incorporated cities and towns: *Provided*, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12-.390; and

(6) "Intercounty rural library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns within two or more counties: *Provided*, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390; and

(7) "Island library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns on a single island only, and not all of the area of the county, in counties composed entirely of islands and having a population of less than twenty-five thousand at the time the island library district was created: *Provided*, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390. [1982 c 123 § 1; 1981 c 26 § 1; 1977 ex.s. c 353 § 5; 1965 c 122 § 1; 1947 c 75 § 10; 1941 c 65 § 1; 1935 c 119 § 2; Rem. Supp. 1947 § 8226-2.]

27.12.190 Library trustees—Appointment, election, removal, compensation. The management and control of a library shall be vested in a board of either five or seven trustees as hereinafter in this section provided. In cities and towns five trustees shall be appointed by the mayor with the consent of the legislative body. In counties, rural county library districts, and island library districts, five trustees shall be appointed by the board of county commissioners. In a regional library district a board of either five or seven trustees shall be appointed by the joint action of the legislative bodies concerned. In intercounty rural library districts a board of either five or seven trustees shall be appointed by the joint action of the boards of county commissioners of each of the counties included in a district. The first appointments for boards comprised of but five trustees shall be for terms of one, two, three, four, and five years respectively, and thereafter a trustee shall be appointed annually to serve for five years. The first appointments for boards comprised of seven trustees shall be for terms of one, two, three, four, five, six, and seven years respectively, and thereafter a trustee shall be appointed annually to serve for seven years. No person shall be appointed to any board of trustees for more than two consecutive terms. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen.

A library trustee shall not receive a salary or other compensation for services as trustee, but necessary expenses actually incurred shall be paid from the library funds.

A library trustee in the case of a city or town may be removed only by vote of the legislative body. A trustee of a county library, a rural county library district library, or an island library district library may be removed for just cause by the county commissioners after a public hearing upon a written complaint stating the ground for removal, which complaint, with a notice of the time and place of hearing, shall have been served upon the trustee at least fifteen days before the hearing. A trustee of an intercounty rural library district may be removed by the joint action of the board of county commissioners of the counties involved in the same manner as provided herein for the removal of a trustee of a county library. [1982 c 123 § 8; 1981 c 26 § 2; 1965 c 122 § 3; 1959 c 133 § 2; 1947 c 75 § 12; 1941 c 65 § 7; 1939 c 108 § 1; 1935 c 119 § 8; Rem. Supp. 1947 § 8226-8. Prior: 1915 c 12 § 2; 1909 c 116 § 4; 1901 c 166 § 4. Formerly RCW 27.12.190 and 27.12.200.]

27.12.210 Library trustees—Organization—Bylaws—Powers and duties. The trustees, immediately after their appointment or election, shall meet and organize by the election of such officers as they deem necessary. They shall:

(1) Adopt such bylaws, rules, and regulations for their own guidance and for the government of the library as they deem expedient;

(2) Have the supervision, care, and custody of all property of the library, including the rooms or buildings constructed, leased, or set apart therefor;

(3) Employ a librarian, and upon his recommendation employ such other assistants as may be necessary, all in accordance with the provisions of RCW 27.08.010, prescribe their duties, fix their compensation, and remove them for cause;

(4) Submit annually to the legislative body a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year; except that in a library district the board of library trustees shall prepare its budget, certify the same and deliver it to the board of county commissioners in ample time for it to make the tax levies for the purpose of the district;

(5) Have exclusive control of the finances of the library;

(6) Accept such gifts of money or property for library purposes as they deem expedient;

(7) Lease or purchase land for library buildings;

(8) Lease, purchase, or erect an appropriate building or buildings for library purposes, and acquire such other property as may be needed therefor;

(9) Purchase books, periodicals, maps, and supplies for the library; and

(10) Do all other acts necessary for the orderly and efficient management and control of the library. [1982 c 123 § 9; 1941 c 65 § 8; 1935 c 119 § 9; Rem. Supp. 1941 § 8226-9. Prior: 1909 c 116 § 5; 1901 c 166 § 5.]

27.12.220 Rural, island, and intercounty rural districts—Budget for capital outlays—Accumulation of funds. The trustees of any rural county library district, any island library district, or any intercounty rural library district may include in the annual budget of such district an item for the accumulation during such year of a specified sum of money to be expended in a future year for the acquisition, enlargement or improvement of real or personal property for library purposes. [1982 c 123 § 10; 1947 c 22 § 1; Rem. Supp. 1947 § 8246a.]

27.12.222 Rural, island, and intercounty rural districts—Bonds—Excess levies. In addition to the indebtedness authorized by RCW 27.12.150 and 27.12.070, rural county library districts, island library districts, and intercounty rural library districts may incur indebtedness for capital purposes to the full extent permitted by the Constitution and may issue general obligation bonds to pay therefor not to exceed an amount equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. Any such indebtedness shall be authorized by resolution of the board of library trustees, and the board of library trustees shall submit the question to the qualified electors of the district for their ratification or rejection whether or not such indebtedness shall be incurred and such bonds issued. Such proposition to be effective must be authorized by an affirmative vote of three-fifths of the electors within the district voting at a general or special election to be held for the purpose of authorizing such indebtedness and bond issue at which election the number of persons voting on the proposition shall constitute not less than forty percent of the total number of

votes cast in such taxing district at the last preceding general election. If the voters shall so authorize, the district may levy annual taxes in excess of normal legal limitations to pay the principal and interest upon such bonds as they shall become due. The excess levies mentioned in this section or in RCW 84.52.052 or 84.52.056 may be made notwithstanding anything contained in RCW 27.12.050, 27.12.070 or 27.12.150 or any other statute pertaining to such library districts. [1982 c 123 § 11; 1970 ex.s. c 42 § 3; 1955 c 59 § 1.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Island library districts—Tax levies: RCW 27.12.420.

27.12.320 Dissolution—Disposition of property. A library established or maintained under this chapter (except a regional or a rural county library district library, an intercounty rural library district library, or an island library district library) may be abolished only in pursuance of a vote of the electors of the governmental unit in which the library is located, taken in the manner prescribed in RCW 27.12.030 for a vote upon the establishment of a library. If a library of a city or town be abolished, the books and other printed or written matter belonging to it shall go to the library of the county whereof the municipality is a part, if there be a county library, but if not, then to the state library. If a library of a county or region be abolished, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct.

After a rural county library district, an island library district, or an intercounty rural library district has been in operation for three or more years, it may be dissolved pursuant to a majority vote of all of the qualified electors residing outside of incorporated cities and towns voting upon a proposition for its dissolution, at a general election, which proposition may be placed upon the ballot at any such election whenever a petition by ten percent or more qualified voters residing outside of incorporated cities or towns within a rural county library district, an island library district, or an intercounty rural library district requesting such dissolution shall be filed with the board of trustees of such district not less than ninety days prior to the holding of any such election. An island library district may also be dissolved pursuant to RCW 27.12.450.

If a rural county library district is dissolved, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct. When an intercounty rural library district is dissolved, the books, funds and other property thereof shall be divided among the participating counties in the most equitable manner possible as determined by the state librarian, who shall give consideration to such items as the original source of property, the amount of funds raised from each county by the district, and the ability of the counties to make further use of such property or

equipment for library purposes. Printed material which the state librarian finds will not be used by any of the participating counties for further library purposes shall be turned over to the state library.

When an island library district is dissolved pursuant to this section, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct. When an island library district is dissolved due to the establishment of a county library district, pursuant to RCW 27.12.450, all property, assets, and liabilities of the preexisting island library district within the area included in the county rural library district shall pass to and be assumed by the county rural library district: *Provided*, That where within any county rural library district heretofore or hereafter organized under the provisions of this chapter a preexisting island library district has incurred a bonded indebtedness which was outstanding at the time of the formation of the county rural library district, the preexisting island library district shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of the formation has been paid in full: *Provided further*, That a special election may be called by the board of trustees of the county rural library district, to be held at the next general or special election held in the respective counties, for the purpose of affording the voters residing within the area outside of the preexisting island library district an opportunity to assume the obligation of the bonded indebtedness of the preexisting island library district or the question may be submitted to the voters as a separate proposition at the election on the proposal for the formation of the county rural library district. [1982 c 123 § 12; 1965 c 122 § 5; 1947 c 75 § 13; 1935 c 119 § 20; Rem. Supp. 1947 § 8226–20. Prior: 1909 c 116 § 19; 1901 c 166 § 19.]

27.12.360 Annexation of city or town into rural county library district, island library district, or intercounty rural library district—Initiation procedure. Any city or town with a population of one hundred thousand or less at the time of annexation may become a part of any rural county library district, island library district, or intercounty rural library district lying contiguous thereto by annexation in the following manner: The inclusion of such a city or town may be initiated by the adoption of an ordinance by the legislative authority thereof stating its intent to join the library district and finding that the public interest will be served thereby. Before adoption, the ordinance shall be submitted to the library board of the city or town for its review and recommendations. If no library board exists in the city or town, the state librarian shall be notified of the proposed ordinance. If the board of trustees of the library district concurs in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town is situated. [1982 c 123 § 13; 1981 c 26 § 3; 1977 ex.s. c 353 § 1.]

27.12.370 Annexation of city or town into library district—Special election procedure. The county legislative authority or authorities shall by resolution call a special election to be held in such city or town at the next date provided in RCW 29.13.010 but not less than forty-five days from the date of the declaration of such finding, and shall cause notice of such election to be given as provided for in RCW 29.27.080.

The election on the annexation of the city or town into the library district shall be conducted by the auditor of the county or counties in which the city or town is located in accordance with the general election laws of the state and the results thereof shall be canvassed by the canvassing board of the county or counties. No person shall be entitled to vote at such election unless he or she is registered to vote in said city or town for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"Shall the city or town of _____ be annexed to and be a part of _____ library district?"

YES
NO

If a majority of the persons voting on the proposition shall vote in favor thereof, the city or town shall thereupon be annexed and shall be a part of such library district. [1982 c 123 § 14; 1977 ex.s. c 353 § 2.]

27.12.380 Annexation of city or town into library district—Withdrawal of annexed city or town. The legislative body of such a city or town which has annexed to such a library district, may, by resolution, present to the voters of such city or town a proposition to withdraw from said library district at any general election held at least three years following the annexation to the library district. [1982 c 123 § 15; 1977 ex.s. c 353 § 3.]

27.12.390 Annexation of city or town into library district—Tax levies. The annual tax levy authorized by RCW 27.12.050, 27.12.150, and 27.12.420 shall be imposed throughout the library district, including any city or town annexed thereto. Any city or town annexed to a rural library district, island library district, or intercounty rural library district shall be entitled to levy up to three dollars and sixty cents per thousand dollars of assessed valuation less any regular levy made by such library district in the incorporated area, notwithstanding any other provision of law: *Provided*, That the limitations upon regular property taxes imposed by chapter 84.55 RCW shall apply. [1982 c 123 § 16; 1977 ex.s. c 353 § 4.]

27.12.400 Island library districts—Establishment—Procedure. The procedure for the establishment of an island library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the island, outside of the area of incorporated cities and towns, asking that the question, "Shall an island library district be established?" be submitted

to a vote of the people of the island, shall be filed with the board of county commissioners.

(2) The board of county commissioners, after having determined that the petitions were signed by the requisite number of qualified petitioners, shall place the proposition for the establishment of an island library district on the ballot for the vote of the people of the island, outside incorporated cities and towns, at the next succeeding general or special election.

(3) If a majority of those voting on the proposition vote in favor of the establishment of the island library district, the board of county commissioners shall forthwith declare it established. [1982 c 123 § 2.]

27.12.410 Island library districts—Restrictions on establishment. An island library district may not be established if there is in existence a library district serving all of the area of the county not included within the area of incorporated cities and towns. [1982 c 123 § 3.]

27.12.420 Island library districts—Board of trustees—Tax levies. Immediately following the establishment of an island library district, the board of county commissioners shall appoint a board of library trustees for the district in accordance with RCW 27.12.190. The board of trustees shall appoint a librarian for the district.

Funds for the establishment and maintenance of the library service of the district shall be provided by the board of county commissioners by means of an annual tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year. The tax levy shall be based on a budget to be compiled by the board of trustees of the island library district who shall determine the tax rate necessary and certify their determination to the board of county commissioners.

Excess levies authorized pursuant to RCW 27.12.222, 84.52.052, or 84.52.056 shall be at a rate determined by the board of trustees of the island library district and certified to the board of county commissioners. [1982 c 123 § 4.]

27.12.430 Island library districts—Name may be adopted. The board of trustees of an island library district may adopt a name by which the district shall be known and under which it shall transact all of its business. [1982 c 123 § 6.]

27.12.440 Island library districts—Powers and limitations for indebtedness. Except as otherwise specifically provided, island library districts and the trustees thereof shall have the same powers and limitations as are prescribed by RCW 27.12.060 through 27.12.070 for rural county library districts and shall follow the same procedures and be subject to the same limitations as are provided therein with respect to the contracting of indebtedness. [1982 c 123 § 5.]

27.12.450 Island library districts—Dissolution, when. If after an island library district serving a single

island has been established, a rural county library district serving all of the area of the county not included within the area of incorporated cities and towns is established as provided in RCW 27.12.040, the district serving the single island in the county shall be dissolved. [1982 c 123 § 7.]

Dissolution of library districts: RCW 27.12.320.

Chapter 27.18

INTERSTATE LIBRARY COMPACT

Sections

27.18.010	Definitions.
27.18.040	Compliance with tax and bonding laws enjoined.

27.18.010 Definitions. As used in this chapter, except where the context otherwise requires:

- (1) "Compact" means the interstate library compact.
- (2) "Public library agency", with reference to this state, means the state library and any county or city library or any regional library, rural county library district library, island library district library, or intercounty rural library district library.
- (3) "State library agency", with reference to this state, means the commissioners of the state library. [1982 c 123 § 17; 1965 ex.s. c 93 § 1.]

27.18.040 Compliance with tax and bonding laws enjoined. No regional library, county library, rural county library district library, island library district library, intercounty rural library district library, or city library of this state shall be a party to a library agreement which provides for the construction or maintenance of a library pursuant to Article III, subdivision (c-7) of the compact, nor levy a tax or issue bonds to contribute to the construction or maintenance of such a library, except after compliance with any laws applicable to regional libraries, county libraries, rural county library district libraries, island library district libraries, intercounty rural library district libraries, or city libraries relating to or governing the levying of taxes or the issuance of bonds. [1982 c 123 § 18; 1965 ex.s. c 93 § 4.]

Chapter 27.60

1989 WASHINGTON CENTENNIAL

Sections

27.60.010	Intent—Commemoration of centennial encouraged.
27.60.020	1989 Washington centennial commission created.
27.60.030	Travel expenses.
27.60.040	Duties of commission—Program for centennial.
27.60.050	Staff for the commission.
27.60.900	Termination of commission.

27.60.010 Intent—Commemoration of centennial encouraged. November 11, 1989, will mark the centennial of Washington's admission to the Union. It is fitting that an event of this magnitude should be commemorated by the state of Washington. Such an event symbolizes achievement and growth and should remind the

people of Washington that the past shapes our present and gives hope for a productive future. Therefore, every community of the state is encouraged to commemorate this historic event. [1982 c 90 § 1.]

27.60.020 1989 Washington centennial commission created. (1) There is established the 1989 Washington centennial commission composed of thirteen members selected as follows:

(a) Two members of the house of representatives appointed by the speaker of the house, one from each political party;

(b) Two members of the senate appointed by the president of the senate, one from each political party;

(c) Nine citizens of the state, appointed by the governor, including a person from a minority culture to represent the state's minority communities, at least one person to represent small towns and rural areas, at least one person representing a state-wide historic preservation organization, and at least one person representing a state historical society.

(2) The chairperson of the commission shall be appointed by the governor from among the citizen members.

(3) The commission shall meet at such times as it is called by the governor or by the chairperson of the commission. [1982 c 90 § 2.]

27.60.030 Travel expenses. Subject to legislative appropriation or grant, nonlegislative members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended. Legislative members shall be reimbursed as provided in RCW 44.04.120 as now or hereafter amended. [1982 c 90 § 3.]

27.60.040 Duties of commission—Program for centennial. The 1989 Washington centennial commission shall develop a comprehensive program for celebrating the centennial of Washington's admission to the union in 1889. The program shall be developed to represent the contributions of all peoples and cultures to Washington state history and to the maximum feasible extent shall be designed to encourage and support participation in the centennial by all interested communities in the state. Program elements shall include:

(1) An annual report to the governor and the legislature incorporating the commission's specific recommendations for the centennial celebration. The report shall recommend projects and activities including, but not limited to:

(a) Restoration of historic properties, with emphasis on those properties appropriate for use in the observance of the centennial;

(b) State and local historic preservation programs and activities;

(c) Publications, films, and other educational materials;

(d) Bibliographical and documentary projects;

(e) Conferences, lectures, seminars, and other programs;

(f) Museum, library, cultural center, and park services and exhibits, including mobile exhibits; and

(g) Ceremonies and celebrations.

(2) A funding proposal to the 1983 legislature which shall include, but not be limited to, a proposal for the issuance of general obligation bonds of the state of Washington. [1982 c 90 § 4.]

27.60.050 Staff for the commission. The commission may employ a staff to implement this chapter, subject to legislative appropriation or grant. The governor may designate an agency of state government for additional staff support. [1982 c 90 § 5.]

27.60.900 Termination of commission. The 1989 Washington centennial commission as established by this chapter shall cease to exist on December 31, 1990. [1982 c 90 § 6.]

Title 28A

COMMON SCHOOL PROVISIONS

Chapters

- 28A.01 Definitions.
- 28A.02 General provisions.
- 28A.03 Superintendent of public instruction.
- 28A.04 State board of education.
- 28A.21 Educational service districts—Superintendent—Boards.
- 28A.31 Health measures.
- 28A.35 Kindergartens.
- 28A.41 State general fund support to public schools—School district reimbursement programs.
- 28A.48 Apportionment to districts—District accounting.
- 28A.57 Organization and reorganization of school districts.
- 28A.58 Provisions applicable to all school districts.
- 28A.59 Provisions applicable only to first class districts.
- 28A.87 Offenses relating to schools, school personnel—Penalties.

TEMPORARY COMMITTEE ON EDUCATIONAL POLICIES, STRUCTURE AND MANAGEMENT

Purpose—1982 1st ex.s. c 33: "Washington's citizens have long placed a high value on a system of education that contributes to individual development, to the health of communities, and to the quality of life in the state as a whole. While many excellent programs exist, there is need to build public confidence in the ability of the education system amply to educate students. The legislature has reason to believe that there is a lack of coordination between education institutions, a weak response to the progressive academic and vocational needs of students, an unclear statement as to roles and missions, an inconsistency between programs, duplications of effort, and inefficient uses of public dollars. The possibilities for improving this structure require comprehensive examination.

The current structure has evolved into several separate and distinct educational components: The kindergarten through grade twelve system; the community college system; the four year colleges and universities system; the vocational technical institute system; and educational

instruction within other state institutions; outside of the state systems, but of much importance, are the private and proprietary schools.

Accountability in education should be equally applicable to all levels of instruction. The assessments of student achievement, what constitutes good instruction, and the responsibilities of management, should be public knowledge and publicly controlled in all segments of education funded by state taxes. The needs of the student, the product of the educational system, are paramount.

Therefore, it is the intent of this act to investigate thoroughly the entire educational complex in Washington state.

A review of the educational complex is merited so that the legislative and administrative branches of government and the public may consider these and other issues: Coordination, needs of students and response to those needs; the role and missions of the components, educational diversity and independence; obstacles to orderly student progression; open access; efficiency; duplication; accreditation; graduation and entrance requirements from high school to postsecondary; efficient uses of public dollars; ways to improve the system possibly through managerial reorganization or combining of components; accountability of the various levels; student achievement; and a determination of what constitutes good instruction." [1982 1st ex.s. c 33 § 1.]

Created—Members—Review and report: "There is hereby created the Temporary Committee on Educational Policies, Structure and Management which shall consist of thirteen citizen members, appointed by the governor, each of whom shall apply for membership and demonstrate his or her concern and interest in all of education, one member from each political party of the house of representatives, appointed by the speaker of the house, and one member from each political party of the senate, appointed by the president of the senate.

The temporary committee shall undertake a general review of the entire structure of Washington education, its strengths and areas needed for improvement, and make a report on its findings to the governor, the legislature and the citizens of the state.

In addition to the examination of those questions raised in *section 1 of this act, this review shall include:

- (1) An emphasis on the educational progression of the student;
- (2) An examination of the current educational components with particular attention directed to their interrelationships, obstacles to student mobility and progression, and how the system or its components might be improved;
- (3) Examination of the educational goals of the components and a determination of their intended interrelationships;
- (4) Determination of the extent of duplication of educational services in both the vocational and academic areas, the extent to which such duplication may be unwarranted, and proposed corrections;
- (5) Consideration of the nature and extent of any benefits, including those pertaining to student access, progression, and learning, improved information, and cost reduction, as well as any disadvantages, that might accrue from structural reorganization in Washington education;
- (6) An emphasis on the education of children in kindergarten through second grade, with particular reference to new information and research on the effectiveness of early childhood education;
- (7) Consideration of the state's responsibility to make ample provisions for K-12 education, including alternative methods of funding staff costs, alternative approaches to levy limitation, incentive approaches to encouraging effective responsible decision-making at the local level, and the optimum use of the ideas and talents of teachers, administrators and citizens; and
- (8) In regard to postsecondary education, the committee shall take into consideration the policy and planning studies or reports of the council for postsecondary education, and shall utilize to [the] extent possible the data and findings of such council's studies and reports. In adopting a work program or prioritizing the areas for review or study, the committee shall determine whether actual or pending studies of such council have sufficiently examined the areas of concern to the committee, with the intent being to avoid unnecessary duplication of effort between the committee and the council.

The committee's first responsibilities shall be to identify priority areas and to prepare to address them in a phased-in manner. Furthermore, as areas are addressed, the committee shall seek out and highlight programs that are working and shall also make use of testimony and reports from those who have studied or who now are studying education in Washington. The committee's initial recommendations shall be made public as soon as possible. Those recommendations shall

then be made to the governor and to the 1983 legislature. The committee shall cease to function at the conclusion of the 1984 legislature unless its duties are legislatively continued." [1982 1st ex.s. c 33 § 2.]

*Reviser's note: Section 1 of this act is quoted above.

Funds—Advisory committee—Staff—Compensation, reimbursements: "The Temporary Committee on Educational Policies, Structure and Management may accept and expend funds in accordance with chapter 43.88 RCW from private sources and grants from public agencies for the purposes of fulfilling its duties: *Provided*, That the acceptance of such funds first must be approved by the governor.

The committee shall establish advisory committees and task forces, as it may deem necessary, to assist it in the fulfillment of its duties and to ensure that the products reflect a broad consensus and earn a sizable constituency.

The educational institutions, delivery systems, and support systems of the state shall fully cooperate with the committee in its investigations and deliberations.

The committee may employ such staff or consultants that it may deem necessary to fulfill its duties.

The committee, when providing compensation, travel expenses, and/or per diem reimbursement for its members, staff or consultants, may do so according to the provisions of chapter 43.03 RCW or chapter 44.04 RCW, respectively." [1982 1st ex.s. c 33 § 3.]

Appropriation—1982 1st ex.s. c 33: "There is hereby appropriated for the biennium ending June 30, 1983, the sum of twenty-five thousand dollars, or so much thereof as may be necessary, from the state general fund: *Provided*, That up to an additional one hundred thousand dollars from the state general fund may be expended if each dollar is matched by funds from private sources, to be used by the committee for the purpose of carrying out the provisions of *sections 1 through 3 of this act. Upon completion of the study, any residual general fund state funds shall revert to the general fund." [1982 1st ex.s. c 33 § 4.]

*Reviser's note: Sections 1 through 3 of this act are quoted above.

Severability—1982 1st ex.s. c 33: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 33 § 5.] This applies to the four sections quoted above.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 28A.01 DEFINITIONS

Sections

28A.01.020 School year—Beginning—End.

28A.01.020 School year—Beginning—End. The school year shall begin on the first day of September and end with the last day of August: *Provided*, That any school district may elect to commence the minimum annual school term as required under RCW 28A.58.754 in the month of August of any calendar year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district. [1982 c 158 § 5; 1977 ex.s. c 286 § 1; 1975-'76 2nd ex.s. c 118 § 22; 1969 ex.s. c 223 § 28A.01.020. Prior: 1909 c 97 p 262 § 4; RRS § 4688; prior: 1897 c 118 § 67; 1890 p 373 § 49. Formerly RCW 28.01.020.]

Severability—1982 c 158: See note following RCW 28A.58.754.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

Chapter 28A.02 GENERAL PROVISIONS

Sections

- 28A.02.300 Distribution of forest reserve funds—Procedure—Proportional county area distribution, when. (Effective July 1, 1983.)
- 28A.02.310 Distribution of forest reserve funds—Revolving fund created—Use—Apportionments from—As affects basic education allocation. (Effective July 1, 1983.)

28A.02.300 Distribution of forest reserve funds—Procedure—Proportional county area distribution, when. (Effective July 1, 1983.) Of the moneys received by the state from the federal government in accordance with Title 16, section 500, United States Code, fifty percent shall be spent by the counties on public schools or public roads, or for any other purposes as now or hereafter authorized by federal law, in the counties in the United States forest reserve from which such moneys were received. Where the reserve is situated in more than one county, the state treasurer shall determine the proportional area of the counties therein. The state treasurer is authorized and required to obtain the necessary information to enable him to make that determination.

The state treasurer shall distribute to the counties, according to the determined proportional area, the money to be spent by the counties. The county legislative authority shall expend said money for the benefit of the public roads or public schools of the county, or for any other purposes as now or hereafter authorized by federal law. [1982 c 126 § 1.]

Effective date—1982 c 126: "This act shall take effect July 1, 1983." [1982 c 126 § 5.]

Severability—1982 c 126: "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." [1982 c 126 § 4.]

The above annotations apply to RCW 28A.02.300 and 28A.02.310 and the repeal of RCW 36.33.110.

28A.02.310 Distribution of forest reserve funds—Revolving fund created—Use—Apportionments from—As affects basic education allocation. (Effective July 1, 1983.) (1) There shall be a fund known as the federal forest revolving fund. The state treasurer, who shall be custodian of the revolving fund, shall deposit into the revolving fund fifty percent of the funds for each county received by the state in accordance with Title 16, section 500, United States Code. Disbursements from the revolving fund shall be on authorization of the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section. No appropriation is required to permit disbursement of moneys from the revolving fund.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion all moneys in the revolving fund to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to

the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October apportionment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.48.010, as now existing or hereafter amended, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended. [1982 c 126 § 2.]

Effective date—Severability—1982 c 126: See notes following RCW 28A.02.300.

Chapter 28A.03

SUPERINTENDENT OF PUBLIC INSTRUCTION

Sections

28A.03.030 Powers and duties generally.

Council on child abuse and neglect, superintendent or designee as member: RCW 43.121.020.

Forest reserve funds, distribution of: RCW 28A.02.300 and 28A.02.310.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

Student transportation allocation, superintendent's report on: See notes following RCW 28A.41.520.

28A.03.030 Powers and duties generally. In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state.

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools.

(3) To prepare and have printed such forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of persons as provided for in RCW 28A.04.120(7), and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents.

(4) To travel, without neglecting his other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials.

(5) To prepare and from time to time to revise a manual of the Washington state common school code,

copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules and regulations related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount.

(6) To act as ex officio member and the chief executive officer of the state board of education.

(7) To hold, annually, a convention of the educational service district superintendents of the state at such time and place as he may deem convenient, for the discussion of questions pertaining to supervision and the administration of the school laws and such other subjects affecting the welfare and interests of the common schools as may be brought before it. Said convention shall continue in session at the option of the superintendent of public instruction. It shall be the duty of every educational service district superintendent in this state to attend said convention during its entire session, and any educational service district superintendent who attends the convention shall be reimbursed for traveling and subsistence expenses as provided in RCW 28A.21.130 in attending said convention.

(8) To file all papers, reports and public documents transmitted to him by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in his office, and his official acts, may, or upon request, shall be certified by him and attested by his official seal, and when so certified shall be evidence of the papers or acts so certified to.

(9) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report of such facts arranged in such manner as he may prescribe, and he shall furnish forms for such reports; and it is hereby made the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct.

(10) To keep in his office a record of all teachers receiving certificates to teach in the common schools of this state.

(11) To issue certificates as provided by law.

(12) To keep in his office at the capital of the state, all books and papers pertaining to the business of his office, and to keep and preserve in his office a complete record of statistics, as well as a record of the meetings of the state board of education.

(13) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to him in writing by any educational service district superintendent, or that may be submitted to him by any other person, upon appeal from the decision of any educational service district superintendent; and he shall

publish his rulings and decisions from time to time for the information of school officials and teachers; and his decision shall be final unless set aside by a court of competent jurisdiction.

(14) To administer oaths and affirmations in the discharge of his official duties.

(15) To deliver to his successor, at the expiration of his term of office, all records, books, maps, documents and papers of whatever kind belonging to his office or which may have been received by him for the use of his office.

(16) To perform such other duties as may be required by law. [1982 c 160 § 2; 1981 c 249 § 1; 1977 c 75 § 17; 1975 1st ex.s. c 275 § 47; 1971 ex.s. c 100 § 1; 1969 ex.s. c 176 § 102; 1969 ex.s. c 223 § 28A.03.030. Prior: 1967 c 158 § 4; 1909 c 97 p 231 § 3; RRS § 4523; prior: 1907 c 240 § 1; 1903 c 104 § 9; 1901 c 177 § 5; 1901 c 41 § 1; 1899 c 142 § 4; 1897 c 118 § 22; 1891 c 127 §§ 1, 2; 1890 pp 348–351 §§ 3, 4; Code 1881 §§ 3155–3160; 1873 p 419 §§ 2–6; 1861 p 55 §§ 2, 3, 4. Formerly RCW 28.03.030; 43.11.030.]

Severability—1982 c 160: See note following RCW 28A.04.090.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Studies—1969 ex.s. c 283: "The superintendent of public instruction is directed to develop, prepare and make available information as follows:

(1) A budgetary study of the fiscal impact which would result from payment to substitute teachers, who are on a continuing basis of twelve or more days within any calendar month, at a rate of pay commensurate with their training and experience and at a per diem salary in proportion to the salary for which that teacher would be eligible as a full time teacher;

(2) A study showing the percentage of high school graduates who go on to an institution of higher education, including community colleges, the distribution of such students, and the percentage thereof which continue in higher education through the various grades or years thereof; and

(3) A study of the fiscal impact of establishing one hundred and eighty days as the base salary period for all contracts with certificated employees." [1969 ex.s. c 283 § 8.]

Severability—1969 ex.s. c 283: See note following RCW 28A.02.061.

Chapter 28A.04

STATE BOARD OF EDUCATION

Sections

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| 28A.04.030 | Elections in new congressional districts—Call and conduct of—Member terms. |
| 28A.04.040 | Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards—Forfeiture of office. |
| 28A.04.090 | Superintendent as ex officio member and chief executive officer of board. |
| 28A.04.100 | Ex officio secretary of board. |

28A.04.030 Elections in new congressional districts—Call and conduct of—Member terms. (1) Whenever any new and additional congressional district is created, except a congressional district at large, the superintendent of public instruction shall call an election in such district at the time of making the call provided for in RCW 28A.04.020. Such election shall be conducted as other elections provided for in this chapter. At

the first such election two members of the state board of education shall be elected, one for a term of three years and one for a term of six years. At the expiration of the term of each, a member shall be elected for a term of six years.

(2) The terms of office of members of the state board of education who are elected from the various congressional districts shall not be affected by the creation of either new or new and additional districts. In such an event, each board member may continue to serve in office for the balance of the term for which he or she was elected or appointed: *Provided*, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 28A.04.080, as now or hereafter amended, by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this subsection following the creation of either new or new and additional congressional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected. [1982 1st ex.s. c 7 § 1; 1969 ex.s. c 223 § 28A.04.030. Prior: 1955 c 218 § 3. Formerly RCW 28.04.030; 43.63.021.]

Severability—1982 1st ex.s. c 7: "If any provision of this 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." [1982 1st ex.s. c 7 § 3.] This applies to RCW 28A.04.030 and 28A.04.040.

28A.04.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards—Forfeiture of office. (1) Candidates for membership on the state board of education shall file declarations of candidacy with the superintendent of public instruction on forms prepared by the superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, or later than the sixteenth day of September. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in his office or is not postmarked before the seventeenth day of September, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of September. No person employed in any school, college, university, or other educational institution or any educational service district superintendent's office or in the office of superintendent of public instruction shall be eligible for membership on the state board of education and each member elected who is not representative of the private schools in this state and thus not running-at-large must be a resident of the congressional district from which he was elected. No member of a board of directors of a local school district or private school shall

continue to serve in that capacity after having been elected to the state board.

(2) The prohibitions against membership upon the board of directors of a school district or school and against employment, as well as the residence requirement, established by this section, are conditions to the eligibility of state board members to serve as such which apply throughout the terms for which they have been elected or appointed. Any state board member who hereafter fails to meet one or more of the conditions to eligibility shall be deemed to have immediately forfeited his or her membership upon the board for the balance of his or her term: *Provided*, That such a forfeiture of office shall not affect the validity of board actions taken prior to the date of notification to the board during an open public meeting of the violation. [1982 1st ex.s. c 7 § 2; 1980 c 179 § 4; 1975 1st ex.s. c 275 § 49; 1971 c 48 § 1; 1969 ex.s. c 223 § 28A.04.040. Prior: 1967 ex.s. c 67 § 6; 1955 c 218 § 5. Formerly RCW 28.04.040; 43.63.023.]

Severability—1982 1st ex.s. c 7: See note following RCW 28A.04.030.

Severability—1980 c 179: See note following RCW 28A.04.010.

Severability—1971 c 48: "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 c 48 § 55.] This applies to RCW 28A.04.040, 28A.04.120, 28A.13.020, 28A.14.020, 28A.14.050, 28A.21.105, 28A.21.106, 28A.24.150, 28A.27.040, 28A.28.010, 28A.28.030, 28A.31.050, 28A.35.030, 28A.41.160, 28A.44.050, 28A.44.060, 28A.44.070, 28A.44.080, 28A.44.090, 28A.44.100, 28A.56.030, 28A.56.040, 28A.56.050, 28A.56.060, 28A.57.020, 28A.57.080, 28A.57.415, 28A.58.100, 28A.58.103, 28A.58.150, 28A.58.560, 28A.58.603, 28A.59.080, 28A.59.150, 28A.60.070, 28A.60.186, 28A.60.210, 28A.65.080, 28A.65.100, 28A.65.110, 28A.65.120, 28A.65.150, 28A.65.153, 28A.65.180, 28A.66.050, 28A.66.060, 28A.66.100, 28A.67.040, 28A.67.060, 28A.70.130, 28A.70.160, 28A.70.170, 28A.88.070 and 28A.96.040.

28A.04.090 Superintendent as ex officio member and chief executive officer of board. The state board of education shall annually elect a president and vice president. The superintendent of public instruction shall be an ex officio member and the chief executive officer of the board. As such ex officio member the superintendent shall have the right to vote only when there is a question before the board upon which no majority opinion has been reached among the board members present and voting thereon and the superintendent's vote is essential for action thereon. The superintendent, as chief executive officer of the board, shall furnish all necessary record books and forms for its use, and shall represent the board in directing the work of school inspection. [1982 c 160 § 1; 1969 ex.s. c 223 § 28A.04.090. Prior: 1967 c 158 § 2; 1909 c 97 p 235 § 2; RRS § 4526. Formerly RCW 28.04.090; 43.63.110.]

Severability—1982 c 160: "If any provision of this 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." [1982 c 160 § 4.] This applies to RCW 28A.03.030, 28A.04.090 and 28A.04.100.

28A.04.100 Ex officio secretary of board. The state board of education shall appoint some person to be ex

officio secretary of said board who shall not be entitled to a vote in its proceedings. The secretary shall keep a correct record of board proceedings, which shall be kept in the office of the superintendent of public instruction. He shall also, upon request, furnish to interested school officials a copy of such proceedings. [1982 c 160 § 3; 1969 ex.s. c 223 § 28A.04.100. Prior: 1909 c 97 p 235 § 3; RRS § 4527. Formerly RCW 28.04.100; 43.63.120.]

Severability—1982 c 160: See note following RCW 28A.04.090.
Records of meetings kept by superintendent of public instruction:
RCW 28A.03.030.

Chapter 28A.21

EDUCATIONAL SERVICE DISTRICTS— SUPERINTENDENT—BOARDS

Sections

- 28A.21.086 ESD board—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs, joint purchasing programs, and direct student service programs.
- 28A.21.255 ESD as self-insurer—Authority.

Redistricting by local governments and municipal corporations—
Census information for—Plan, prepared when, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous: RCW 29.70.100.

28A.21.086 ESD board—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs, joint purchasing programs, and direct student service programs. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district: *Provided*, That the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.

(3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational service district pursuant to RCW 28A.58.107(3), as now or hereafter amended: *Provided*, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district: *Provided*, That the board of directors and superintendent

of a local school district request the educational service district to perform said service or services: *Provided further*, That the educational service district board of directors and superintendents agree to provide the requested services: *Provided, further*, That the provisions of chapter 39.34 RCW are strictly adhered to. [1982 c 46 § 1; 1979 ex.s. c 66 § 1; 1975 1st ex.s. c 275 § 16; 1971 ex.s. c 282 § 11.]

Severability—1979 ex.s. c 66: "If any provision of this 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." [1979 ex.s. c 66 § 3.] This applies to RCW 28A.21.086 and 28A.58.107.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.255 ESD as self-insurer—**Authority.** The board of directors of any educational service district is authorized to enter into agreements with the board of directors of any local school district and/or other educational service districts to form a self-insurance group for the purpose of qualifying as a self-insurer under chapter 51.14 RCW. [1982 c 191 § 9.]

Effective date—**Severability**—1982 c 191: See notes following RCW 28A.57.170.

Educational service districts as self-insurers: RCW 51.14.150 and 51.14.160.

Chapter 28A.31 HEALTH MEASURES

Sections

- 28A.31.150 Public and private schools—Administration of oral medication by—Conditions.
28A.31.155 Public and private schools—Administration of oral medication by—Immunity from liability—Discontinuance, procedure.

28A.31.150 Public and private schools—Administration of oral medication by—Conditions. Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

(1) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications to students, the acquisition of parent requests and instructions, and the acquisition of dentist and physician requests and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safe-keeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication;

(2) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

(3) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

(4) The public school district or the private school is in receipt of (a) a written, current and unexpired request from a licensed physician or dentist for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials, and (b) written, current and unexpired instructions from such physician or dentist regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive work days;

(5) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to subsection (1) of this section and in substantial compliance with the prescription of a physician or dentist or the written instructions provided pursuant to subsection (4) of this section;

(6) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

(7) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 or 18.88 RCW to train and supervise the designated school district personnel in proper medication procedures. [1982 c 195 § 1.]

Severability—1982 c 195: "If any provision of this 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." [1982 c 195 § 4.] This applies to RCW 18.71.030, 28A.31.150 and 28A.31.155.

28A.31.155 Public and private schools—Administration of oral medication by—Immunity from liability—Discontinuance, procedure. (1) In the event a school employee administers oral medication to a student pursuant to RCW 28A.31.150 in substantial compliance with the prescription of the student's physician or dentist or the written instructions provided pursuant to RCW 28A.31.150(4), and the other conditions set forth in RCW 28A.31.150 have been substantially complied with, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication to any student pursuant to RCW 28A.31.150 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be

liable in any criminal action or for civil damages in their governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: *Provided*, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student. [1982 c 195 § 2.]

Severability—1982 c 195: See note following RCW 28A.31.150.

Chapter 28A.35 KINDERGARTENS

Sections

28A.35.010	Repealed.
28A.35.011	Decodified.
28A.35.020	Repealed.
28A.35.030	Repealed.
28A.35.070	Repealed.
28A.35.080	Decodified.

28A.35.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.35.011 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.35.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.35.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.35.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.35.080 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.41

STATE GENERAL FUND SUPPORT TO PUBLIC SCHOOLS—SCHOOL DISTRICT REIMBURSEMENT PROGRAMS

(Formerly: Current state school fund—School district reimbursement programs)

Sections

28A.41.130	Annual basic education allocation of funds according to average FTE student enrollment—Student/teacher ratio standard.
28A.41.162	Additional programs for which legislative appropriations must or may be made.
28A.41.260	Repealed.
28A.41.412	Remedial assistance program—As part of URRD program.
28A.41.520	Student transportation allocation—Student mile and unit mile differential rates, determination of.
28A.41.525	Student transportation allocation—Preliminary and final allocation, notice of—Revised eligible student data, when—Allocation payments, amounts, when.

28A.41.130 Annual basic education allocation of funds according to average FTE student enrollment—

Student/teacher ratio standard. From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.48-.010 to each school district of the state operating a program approved by the state board of education an amount which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to *RCW 36.33.110, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full time equivalent student enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.58.754, as now or hereafter amended.

Basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW 28A.41.130 and 28A.41.140 to fund those program requirements identified in RCW 28A.58.754 in accordance with the formula and ratios provided in RCW 28A.41.140.

Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district: *Provided*, That for the purposes of this section, "classroom teacher" shall be defined as an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students: *Provided further*, That the state board of education shall adopt rules and regulations to insure compliance with the student/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the student/teacher ratio requirements of this section by virtue of a small number of students: *Provided, further*, That these rules and regulations shall provide that any district that has a ratio of no greater than twenty-five students per classroom teacher in grades kindergarten through three shall be in conformance with this section.

If a school district's basic education program fails to meet the basic education requirements enumerated in RCW 28A.41.130, 28A.41.140 and 28A.58.754, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured: *Provided*, That the state board of education may waive this requirement in the event of substantial lack of classroom space.

This section shall be effective September 1, 1982. [1982 c 158 § 3; 1982 c 158 § 2; 1980 c 154 § 12; 1979

ex.s. c 250 § 2; 1977 ex.s. c 359 § 4; 1975 1st ex.s. c 211 § 1; 1973 2nd ex.s. c 4 § 1; 1973 1st ex.s. c 195 § 9; 1973 c 46 § 2. See also 1973 1st ex.s. c 195 §§ 136, 137, 138 and 139. Prior: 1972 ex.s. c 124 § 1; 1972 ex.s. c 105 § 2; 1971 ex.s. c 294 § 19; 1969 c 138 § 2; 1969 ex.s. c 223 § 28A.41.130; prior: 1967 ex.s. c 140 § 3; 1965 ex.s. c 171 § 1; 1965 ex.s. c 154 § 2; prior: (i) 1949 c 212 § 1, part; 1945 c 141 § 4, part; 1923 c 96 § 1, part; 1911 c 118 § 1, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-4, part. (ii) 1949 c 212 § 2, part; 1945 c 141 § 5, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-5, part. Formerly RCW 28.41.130.]

*Reviser's note: RCW 36.33.110 was repealed by 1982 c 126 § 3, effective July 1, 1983; but see RCW 28A.02.300 and 28A.02.310.

Severability—1982 c 158: See note following RCW 28A.58.754.

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82-45 RCW digest.

Effective date—Severability—1979 ex.s. c 250: See note following RCW 28A.58.754.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.58.750.

Emergency and 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.

Effective date—1972 ex.s. c 124: "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety and the support of the state government and its existing public institutions, and sections 2, 3, 4, 6, 7 and 11 shall take effect immediately; sections 1, 8, 9 and 10 hereof shall take effect July 1, 1973; and section 5 hereof shall take effect July 1, 1974." [1972 ex.s. c 124 § 12.] Sections 2, 3, 4, 6, 7 and 11 are codified as RCW 28A.44.085, 28A.44.080, 28A.44.090, 28A.44.110, 28A.44.120 and 28A.44.130, respectively, and declared effective immediately; sections 1, 8 and 10 are codified as RCW 28A.41.130, 84.52.050 and 28A.48.110, respectively, and declared effective July 1, 1973; section 9 is the repeal of RCW 28A.44.050 and declared effective July 1, 1973; section 5 is codified as RCW 28A.44.100 and declared effective July 1, 1974.

Severability—1972 ex.s. c 124: "If any provision of this 1972 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." [1972 ex.s. c 124 § 13.] This applies to RCW 28A.41.130, 28A.44.080, 28A.44.085, 28A.44.090, 28A.44.100, 28A.44.110, 28A.44.120, 28A.44.130, 28A.48.110, 84.52.050 and the repeal of RCW 28A.44.050.

Effective date—1972 ex.s. c 105: "This act except for section 4 will take effect July 1, 1973." [1972 ex.s. c 105 § 5.] Sections 1 through 3, codified as RCW 28A.35.010, 28A.41.130 and 28A.58.180 are effective July 1, 1973. Section 4, codified as RCW 28A.41.170, is declared effective May 23, 1972 by said section 5 above.

Severability—1972 ex.s. c 105: "If any provision of this 1972 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." [1972 ex.s. c 105 § 6.] This applies to RCW 28A.35.010, 28A.41.130, 28A.41.170 and 28A.58.180.

Basic Education Act of 1977, RCW 28A.41.130 as part of: RCW 28A.58.750.

Distribution of forest reserve funds—As affects basic education allocation: RCW 28A.02.310.

28A.41.162 Additional programs for which legislative appropriations must or may be made. In addition to those state funds provided to school districts for basic education, the legislature shall appropriate funds for pupil transportation, in accordance with this chapter, and for programs for handicapped students, in accordance with

chapter 28A.13 RCW. The legislature may appropriate funds to be distributed to school districts for population factors such as urban costs, enrollment fluctuations and for special programs, including but not limited to, vocational-technical institutes, compensatory programs, bilingual education, urban, rural, racial and disadvantaged programs, programs for gifted students, and other special programs. [1982 1st ex.s. c 24 § 1; 1977 ex.s. c 359 § 7.]

Effective date—1982 1st ex.s. c 24: "Sections 2 and 3 of this amendatory act shall take effect September 1, 1982." [1982 1st ex.s. c 24 § 6.] Sections 2 and 3 of 1982 1st ex.s. c 24 are codified as RCW 28A.41.520 and 28A.41.525. The remaining sections are effective July 10, 1982.

Severability—1982 1st ex.s. c 24: "If any provision of this 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." [1982 1st ex.s. c 24 § 7.] This applies to RCW 28A.41.162, 28A.41.520, 28A.41.525, the section noted following RCW 28A.41.520, and the repeal of section 13, chapter 265, Laws of 1981 (uncodified).

Report to legislature relating to student transportation allocation—1982 1st ex.s. c 24: See note following RCW 28A.41.520.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977, RCW 28A.41.162 as part of: RCW 28A.58.750.

28A.41.260 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.41.412 Remedial assistance program—As part of URRD program. The remediation program provided for in RCW 28A.41.400 through 28A.41.410 shall constitute an integral portion of the state urban, rural, racial and disadvantaged program provided for in RCW 28A.41.250 through 28A.41.290, but shall not be subject to the provisions of RCW 28A.41.270 and 28A.41.280. [1982 c 163 § 2; 1979 c 149 § 7.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1979 c 149: See note following RCW 28A.41.400.

28A.41.520 Student transportation allocation—Student mile and unit mile differential rates, determination of. Each district's annual student transportation allocation shall be based on differential rates determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for each district. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may consist of no more than eight differential rates state-wide, as determined by the superintendent, and shall include but not be limited to such factors as climate and terrain; restricted passenger load; nonpassenger miles; and the costs of insurance, district or contracted employee salaries, and benefits, maintenance, fuel, supplies, and materials to the extent that they are not under the direct control of the district. The standard student mile allocation rate shall be used to

determine the transportation allocation for those services provided for in RCW 28A.41.505(1).

(2) The superintendent shall annually calculate a standard unit mile rate for each district. "Standard unit mile rate," as used in this section, means the cost of operating an approved transportation vehicle for one mile. The standard unit mile rate may consist of no more than eight differential rates state-wide, as determined by the superintendent, and shall be based on the factors used in subsection (1) of this section. The standard unit mile rate shall be used to determine the transportation allocation for those services provided for in RCW 28A.41.505(2) and (3). For purposes of allocating funds for RCW 28A.41.505(2), the superintendent shall use the average number of miles reported by the district for the two school years, excluding field trips.

(3) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the student mile and unit mile rates to be used the following year. [1982 1st ex.s. c 24 § 2; 1981 c 265 § 4.]

Effective date—Severability—1982 1st ex.s. c 24: See notes following RCW 28A.41.162.

Report to legislature relating to student transportation allocation—1982 1st ex.s. c 24: "The superintendent of public instruction shall submit a report to the legislature which shall:

(1) Identify the factors that will be used to recognize cost differentials between districts, and the data elements that will be used to measure the factors that contribute to these cost differentials;

(2) Collect the appropriate financial and workload data necessary to measure cost differentials between districts;

(3) Describe and analyze the differential rates associated with the standard student mile allocation under the eligibility formula along with an analysis of each school district's eligibility for a differential rate. The rationale for choosing specific rates and the procedures used in evaluating district requests for differential rates shall also be included;

(4) Compare and analyze the difference in costs of changing the "eligible student" definition in RCW 28A.41.510 to include only those students whose residence or assigned route stop is more than one and one-half miles from the student's school, while still excepting handicapped students;

(5) Present a method of measuring potential ridership of eligible students within the formula utilizing factors which account for the variations associated with student demand on the district's transportation system;

(6) Compare the distribution of pupil transportation resources utilizing eligible student data, eligible student data modified by the student demand factor specified in (5) above, and eligible students actually transported plus ten percent, with an analysis of the fiscal and program implications of each distribution method; and

(7) Present options for a continued phase-in of the eligible student allocation formula, with a description of the fiscal impact on school districts.

The report shall be submitted to the senate and house committees on education no later than December 15, 1982.

All data collected by the superintendent and requested by the committees on ways and means or education of the house or senate pertaining to the funding of pupil transportation shall be delivered to the legislative evaluation and accountability program (LEAP) as soon as possible in a machine readable form acceptable to the LEAP committee." [1982 1st ex.s. c 24 § 4.]

Effective date—Severability—1981 c 265: See notes following RCW 28A.41.505.

28A.41.525 Student transportation allocation—Preliminary and final allocation, notice of—Revised

eligible student data, when—Allocation payments, amounts, when. The superintendent shall determine the preliminary, estimated student transportation allocation for each district and notify districts of their preliminary student transportation allocation by June 15. By the following October 15th, every district shall notify the superintendent of any changes in the data utilized in calculating the preliminary student transportation allocation. The superintendent shall then make necessary corrections and shall notify districts of their final student transportation allocation before the following December 1st. If the number of eligible students in a school district changes ten percent or more from the final October 15 number, and the change is maintained for a period of twenty consecutive school days or more, the district may submit revised eligible student data to the superintendent of public instruction. The superintendent shall, to the extent funds are available, recalculate the district's allocation for the transportation of pupils to and from school.

The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW 28A.48.010, as now or hereafter amended. For the 1982-83 school year, no school district shall receive a reduction or increase in funds of over three percent of what it received the previous year as adjusted to its proportional share of funds appropriated by the legislature for 1982-83 transportation services. [1982 1st ex.s. c 24 § 3; 1981 c 265 § 5.]

Effective date—Severability—1982 1st ex.s. c 24: See notes following RCW 28A.41.162.

Report to legislature relating to student transportation allocation—1982 1st ex.s. c 24: See note following RCW 28A.41.520.

Effective date—Severability—1981 c 265: See notes following RCW 28A.41.505.

Chapter 28A.48

APPORTIONMENT TO DISTRICTS—DISTRICT ACCOUNTING

Sections

28A.48.010 By state superintendent.

Forest reserve funds, distribution of: RCW 28A.02.300 and 28A.02.310.

28A.48.010 By state superintendent. On or before the last business day of September 1969 and each month thereafter, the superintendent of public instruction shall apportion from the state general fund to the several educational service districts of the state the proportional share of the total annual amount due and apportionable to such educational service districts for the school districts thereof as follows:

September	9%
October	9%
November	5.5%
December	9%
January	9%
February	9%
March	9%

April	9%
May	5.5%
June	6.0%
July	10.0%
August	10.0%

The annual amount due and apportionable shall be the amount apportionable for all apportionment credits estimated to accrue to the schools during the apportionment year beginning September first and continuing through August thirty-first. Appropriations made for school districts for each year of a biennium shall be apportioned according to the schedule set forth in this section for the fiscal year starting September 1st of the then calendar year and ending August 31st of the next calendar year. The apportionment from the state general fund for each month shall be an amount which will equal the amount due and apportionable to the several educational service districts during such month: *Provided*, That any school district may petition the superintendent of public instruction for an emergency advance of funds which may become apportionable to it but not to exceed ten percent of the total amount to become due and apportionable during the school districts apportionment year. The superintendent of public instruction shall determine if the emergency warrants such advance and if the funds are available therefor. If he determines in the affirmative, he may approve such advance and, at the same time, add such an amount to the apportionment for the educational service district in which the school district is located: *Provided*, That the emergency advance of funds and the interest earned by school districts on the investment of temporary cash surpluses resulting from obtaining such advance of state funds shall be deducted by the superintendent of public instruction from the remaining amount apportionable to said districts during that apportionment year in which the funds are advanced. [1982 c 136 § 1; 1981 c 282 § 1; 1981 c 5 § 32; 1980 c 6 § 5; 1979 ex.s. c 237 § 1; 1975-'76 2nd ex.s. c 118 § 27; 1975 1st ex.s. c 275 § 67; 1974 ex.s. c 89 § 1; 1972 ex.s. c 146 § 1; 1970 ex.s. c 15 § 15. Prior: 1969 ex.s. c 184 § 3; 1969 ex.s. c 176 § 108; 1969 ex.s. c 223 § 28A.48.010; prior: 1965 ex.s. c 162 § 1; 1959 c 276 § 3; prior: 1945 c 141 § 3, part; 1923 c 96 § 1; 1911 c 118 § 1; 1909 c 97 p 312 §§ 1, 2, 3; Rem. Supp. 1945 § 4940-3, part. Formerly RCW 28.48.010.]

Certain 1982-83 school year monthly payments delayed—Interest—1982 c 136: "For the 1982-83 school year, one-half of the September, October, March, and April payments under RCW 28A.48.010 shall be made on the last business day of the respective month and the remainder on the fifteenth day of the following month. Interest shall be paid on the amounts deferred under this section at the rate for state interfund loans as established by the state finance committee." [1982 c 136 § 2.]

Deferral of payments to 1982-83 school year—Authorized—Procedure—1982 c 136: "The superintendent of public instruction shall allow local school districts, upon request, to defer up to four percent of the funds provided by section 87, chapter 340, Laws of 1981, as now existing or hereafter amended, for the 1981-82 school year to the 1982-83 school year. For the purposes of the 1982 maximum qualification calculation under RCW 84.52.0531, the 1981-82 basic education allocation shall exclude such deferred funds. Any funds received in the 1982-83 school year pursuant to this section shall not be included in the calculation of the 1984 levy lid pursuant to RCW 84.52.0531. Local school districts shall receive the full amount deferred under this

section with the June, 1983 apportionment." [1982 c 136 § 3.] Chapter 340, Laws of 1981 was the state operating budget for the fiscal biennium beginning July 1, 1981, and ending June 30, 1983.

Appropriation—Interest costs—1982 c 136: "There is hereby appropriated from the general fund to the superintendent of public instruction for the biennium ending June 30, 1983, two million two hundred thousand dollars, or so much thereof as may be necessary, solely for the purposes of paying interest costs associated with section 2 of this act." [1982 c 136 § 4.] See section 2 of 1982 c 136 quoted above.

Effective date—1982 c 136: "Section 3 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder to this act shall take effect September 1, 1982." [1982 c 136 § 5.] See section 3 of 1982 c 136 quoted above; section 1 of 1982 c 136 is RCW 28A.48.010, the remaining sections thereof are quoted above.

Severability—1980 c 6: See note following RCW 28A.40.100.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

Effective date—1972 ex.s. c 146: "This 1972 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 section 1 shall take effect July 1, 1972, and section 2 shall take effect immediately." [1972 ex.s. c 146 § 3.] Section 1 of this 1972 act is codified as RCW 28A.48.010, declared effective July 1, 1972; section 2 of this 1972 act is codified as RCW 28A.41.175.

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Student transportation allocation—Preliminary and final allocation, notice of—Revised eligible student data, when—Allocation payments, amounts, when: RCW 28A.41.525.

Student transportation vehicle acquisition allocation—Reimbursement schedule—Depreciation schedule: RCW 28A.41.540.

Chapter 28A.57

ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

Sections

28A.57.170 Petition for reorganization—Conditions.

Redistricting by local governments and municipal corporations—Census information for—Plan, prepared when, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous: RCW 29.70.100.

28A.57.170 Petition for reorganization—Conditions. For the purpose of forming a new school district, a petition in writing may be presented to the educational service district superintendent, as secretary of the county committee, by registered voters residing (1) in each whole district and in each part of a district proposed to be included in any single new district, or (2) in the territory of a proposed new district which comprises a part only of one or more districts. Ten or more registered voters may sign and present such petition with the approval of the boards of directors of the affected school districts. Ten percent or more of the registered voters may sign and present such petition with or without the approval of the boards of directors of the affected school districts. The petition shall state the name and number of each district involved in or affected by the proposal to form the new district and shall describe the boundaries of the proposed new district. No more than one petition for consolidation of the same two school districts or parts thereof will be considered during a school fiscal year. [1982 c 191 § 1; 1975 1st ex.s. c 275 § 91; 1969

ex.s. c 176 § 127; 1969 ex.s. c 223 § 28A.57.170. Prior: 1947 c 266 § 15; Rem. Supp. 1947 § 4693-34; prior: 1909 c 97 p 266 § 1; RRS § 4721; prior: 1899 c 14 § 1; 1897 c 118 § 4; 1891 c 127 § 7; 1890 p 361 § 19. Formerly RCW 28.57.170.]

Effective date—1982 c 191: "The effective date of sections 3 and 4 of this amendatory act shall be September 1, 1982." [1982 c 191 § 13.] Sections 3 and 4 of this amendatory act, 1982 c 191, are codified as RCW 28A.58.131 and 28A.58.035, respectively. The remaining sections are effective June 10, 1982.

Severability—1982 c 191: "If any provision of this 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." [1982 c 191 § 14.] This applies to RCW 28A.21.255, 28A.57.170, 28A.58.035, 28A.58.055, 28A.58.131, 28A.58.410, 28A.58.430, 28A.58.441, 28A.59.180, 28A.59.185, 51.14.150 and 51.14.160.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Chapter 28A.58

PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

Sections

28A.58.035	Surplus school property—Rental, lease or use of—Disposition of moneys received from.
28A.58.055	Purchase of works of art—Procedure.
28A.58.098	Employee salary or compensation—Limitations respecting.
28A.58.120	Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes.
28A.58.131	Contracts to provide pupil transportation services, lease building space and portable buildings, and lease or have maintained security systems, computers and other equipment.
28A.58.180	Repealed.
28A.58.370	Special meetings of voters—Authorized—Purpose.
28A.58.410	School district as self-insurer—Authority.
28A.58.430	Investment of funds, including funds received by ESD—Authority—Procedure.
28A.58.441	School funds enumerated—Deposits in—Use.
28A.58.754	Basic Education Act of 1977—Definitions—Program requirements—Program accessibility—Rules and regulations.

Distribution of forest reserve funds: RCW 28A.02.300 and 28A.02.310.

Review to determine average annual earnable compensation for computing retirement benefits—Purpose—Employer to remit extra pension cost: RCW 41.32.4985.

28A.58.035 Surplus school property—Rental, lease or use of—Disposition of moneys received from. Each school district's board of directors shall deposit moneys derived from the lease, rental or occasional use of surplus school property as follows:

(1) Moneys derived from real property shall be deposited into the district's building reserve fund except for moneys required to be expended for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property, which moneys shall be deposited in the district's general fund;

(2) Moneys derived from pupil transportation vehicles shall be deposited in the district's transportation vehicle fund;

(3) Moneys derived from other personal property shall be deposited in the district's general fund. [1982 c 191 § 4; 1981 c 250 § 4; 1980 c 115 § 4.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Effective date—1981 c 250: "The effective date of this amendatory act shall be September 1, 1981." [1981 c 250 § 5.] This applies to RCW 28A.58.035, 28A.58.0461, and 28A.58.441.

Severability—1980 c 115: See note following RCW 28A.58.040.
School funds enumerated—Deposits in—Use: RCW 28A.58.441.

28A.58.055 Purchase of works of art—Procedure.

The state board of education and superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited in other public facilities by the school district. In case the amount shall not be required in toto or in part for any project, such unrequired amounts may be accumulated and expended for art in other projects of the school district. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art for each such project, and payments therefor shall be made in accordance with law. The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and the school district board of directors: *Provided*, That the school district board of directors shall have the right to:

(1) Waive its use of the one-half of one percent of the appropriation for the acquisition of works of art before the selection process by the Washington state arts commission;

(2) Appoint a representative to the body established by the Washington state arts commission to be part of the selection process with full voting rights;

(3) Reject the results of the selection process;

(4) Reject the placement of a completed work or works of art on school district premises.

Waiver or rejection at any point before or after the selection process shall not cause the loss of or otherwise endanger state construction funds available to the local school district. Any works of art rejected or funds waived under this section shall be applied to the provision of works of art under chapter 43.17, 43.19, 28B.10 and 28A.58 RCW, at the discretion of the Washington state arts commission, notwithstanding any contract or agreement between the affected school district and the artist involved. Expenditures for works of art as provided for herein shall be contracted for separately from all other items in the original construction of any state building. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration by the contracting agency, the architect, and Washington

state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses or other buildings of a temporary nature. [1982 c 191 § 2; 1974 ex.s. c 176 § 5.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Acquisition of works of art for use in public buildings: RCW 43.46.090.

Agencies to expend moneys for acquisition of works of art—Conditions: RCW 43.17.200.

28A.58.098 Employee salary or compensation—Limitations respecting. (1) No school district board of directors or administrators may:

(a) Increase an employee's salary or compensation to include a payment in lieu of providing a fringe benefit; or

*(b) Allow any payment to an employee which is partially or fully conditioned on the termination or retirement of the employee, except as provided in subsection (2) of this section.

(2) A school district board of directors may compensate an employee for termination of the employee's contract in accordance with the termination provisions of the contract. If no such provisions exist the compensation must be reasonable based on the proportion of the uncompleted contract. Compensation received under this subsection shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

(3) Provisions of any contract in force on March 27, 1982, which conflict with the requirements of this section shall continue in effect until contract expiration. After expiration, any new contract including any renewal, extension, amendment or modification of an existing contract executed between the parties shall be consistent with this section. [1982 1st ex.s. c 10 § 1.]

***Reviser's note:** Original subsection (1)(b) was vetoed by the governor, see 1982 1st ex.s. c 10, thus original subsection (1)(c) has been edited to read subsection (1)(b).

Severability—1982 1st ex.s. c 10: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 10 § 3.] This applies to RCW 28A.58.098 and 41.32.4985.

28A.58.120 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes. There is hereby created a fund on deposit with each county treasurer for each school district of the county having an associated student body as defined in RCW 28A.58.115. Such fund shall be known as the associated student body program fund. Rules and regulations promulgated by the superintendent of public instruction under RCW 28A.58.115 shall require separate accounting for each associated student body's transactions in the school district's associated student body program fund.

All moneys generated through the programs and activities of any associated student body shall be deposited

in the associated student body program fund. Such funds may be invested for the sole benefit of the associated student body program fund in items enumerated in RCW 28A.58.440 and the county treasurer may assess a fee as provided therein. Disbursements from such fund shall be under the control and supervision, and with the approval, of the board of directors of the school district, and shall be by warrant as provided in chapter 28A.66 RCW: *Provided*, That in no case shall such warrants be issued in an amount greater than the funds on deposit with the county treasurer in the associated student body program fund. To facilitate the payment of obligations, an imprest bank account or accounts may be created and replenished from the associated student body program fund.

The associated student body program fund shall be budgeted by the associated student body, subject to approval by the board of directors of the school district. All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Notwithstanding the provisions of RCW 43.09.210, it shall not be mandatory that expenditures from the district's general fund in support of associated student body programs and activities be reimbursed by payments from the associated student body program fund.

Nothing in this section shall prevent moneys in the associated student body program fund, budgeted or otherwise, from being used for such scholarship, student exchange and charitable purposes as the appropriate governing body representing the associated student body shall determine, and for such purposes, said moneys shall not be deemed public moneys under section 7, Article VIII, of the state Constitution.

Nonassociated student body program fund moneys generated and received by students for private purposes, including but not limited to use for scholarship and/or charitable purposes, may, in the discretion of the board of directors of any school district, be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes: *Provided*, That the school district shall either withhold an amount from such moneys as will pay the district for its cost in providing the service or otherwise be compensated for its cost for such service. [1982 c 231 § 1; 1977 ex.s. c 160 § 1; 1975 1st ex.s. c 284 § 2.]

Severability—1982 c 231: "If any provision of this 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." [1982 c 231 § 2.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.58.113.

28A.58.131 Contracts to provide pupil transportation services, lease building space and portable buildings, and lease or have maintained security systems, computers and other equipment. The board of directors of any school district may enter into contracts for their respective districts for periods not exceeding five years in duration

with public and private persons, organizations, and entities for the following purposes:

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

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

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

The provisions of this section shall not have any effect on the length of contracts for school district employees specified by RCW 28A.58.100 and 28A.67.070, as now or hereafter amended. [1982 c 191 § 3; 1977 ex.s. c 210 § 1.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Severability—1977 ex.s. c 210: "If any provision of this 1977 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." [1977 ex.s. c 210 § 3.] This applies to RCW 28A.21.310 and 28A.58.131.

28A.58.180 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.58.370 Special meetings of voters—Authorized—Purpose. Any board of directors at its discretion may, and, upon a petition of a majority of the legal voters of their district, shall call a special meeting of the voters of the district, to determine the length of time in excess of the minimum length of time prescribed by law that such school shall be maintained in the district during the year; to determine whether or not the district shall purchase any schoolhouse site or sites, and to determine the location thereof; or to determine whether or not the district shall build one or more schoolhouses or school facilities; or to determine whether or not the district shall sell any real or personal property belonging to the district, borrow money or establish and maintain a school district library. [1982 c 158 § 4; 1969 ex.s. c 223 § 28A.58.370. Prior: 1909 c 97 p 349 § 1; RRS § 5028; prior: 1901 c 177 § 18; 1897 c 118 § 156. Formerly RCW 28.58.370.]

Severability—1982 c 158: See note following RCW 28A.58.754.

28A.58.410 School district as self-insurer—Authority. Any school district board of directors is authorized to enter into agreements with the board of directors of other school districts and/or educational service districts to form a self-insurance group for the purpose of

qualifying as a self-insurer under chapter 51.14 RCW. [1982 c 191 § 10.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

School districts as self-insurers: RCW 51.14.150 and 51.14.160.

28A.58.430 Investment of funds, including funds received by ESD—Authority—Procedure. Any common school district board of directors is empowered to direct and authorize, and to delegate authority to an employee, officer, or agent of the common school district or the educational service district to direct and authorize, the county treasurer to invest funds described in RCW 28A.58.435 and 28A.58.440 and funds from state and federal sources as are then or thereafter received by the educational service district, and such funds from county sources as are then or thereafter received by the county treasurer, for distribution to the common school districts. Funds from state, county and federal sources which are so invested may be invested only for the period the funds are not required for the immediate necessities of the common school district as determined by the school district board of directors or its delegatee, and shall be invested in behalf of the common school district pursuant to the terms of RCW 28A.58.435, 28A.58.440, or 36.29.020, as now or hereafter amended, as the nature of the funds shall dictate. A grant of authority by a common school district pursuant to this section shall be by resolution of the board of directors and shall specify the duration and extent of the authority so granted. Any authority delegated to an educational service district pursuant to this section may be redelegated pursuant to RCW 28A.21.095, as now or hereafter amended. [1982 c 191 § 5; 1975 c 47 § 1.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Transportation vehicle fund—Deposits in—Use—Rules for establishment and use: RCW 28A.58.428.

28A.58.441 School funds enumerated—Deposits in—Use. School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A building reserve fund shall be established. Money to be deposited into the building reserve fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.58.035, and proceeds from the sale of real property as authorized by RCW 28A.58.0461.

Money legally deposited into the building reserve fund may be used for:

(a) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a

building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(b) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(c) Purchase or installation of additional major items of equipment and furniture: *Provided*, That vehicles shall not be purchased with building reserve fund money.

(d) Transfer to the building and capital projects fund.

(3) A building and capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the building and capital projects fund so established. Money to be deposited into the building and capital projects fund shall include but not be limited to bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.41.143, earnings from building fund investments as authorized by RCW 28A.58.435 and 28A.58.440, and transfers from the building reserve fund.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.51.010, except that accrued interest paid for bonds shall be deposited in the bond interest and redemption fund.

Money legally deposited into the building and capital projects fund from other sources may be used for the purposes described in RCW 28A.51.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical and the substantial replacement of equipment and furniture in a structure or portion of a structure being converted from one use to another use, and no other appropriate and usable equipment or furniture is available within the district's inventory. Major renovation and replacement shall include but shall not be limited to roofing, heating and ventilating systems, floor covering, and electrical systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property. [1982 c 191 § 6; 1981 c 250 § 2.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Effective date—1981 c 250: See note following RCW 28A.58.035.

28A.58.754 Basic Education Act of 1977—Definitions—Program requirements—Program accessibility—Rules and regulations. (1) For the purposes of this section and RCW 28A.41.130 and 28A.41.140, each as now or hereafter amended:

(a) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

(b) "Instruction in work skills" shall include instruction in one or more of the following areas: Industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education.

(2) Satisfaction of the basic education goal identified in RCW 28A.58.752 shall be considered to be implemented by the following program requirements:

(a) Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours. The program shall include reading, arithmetic, language skills and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students in grades one through three, at least a total program hour offering of two thousand seven hundred hours. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(c) Each school district shall make available to students in grades four through six at least a total program hour offering of two thousand nine hundred seventy hours. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(d) Each school district shall make available to students in grades seven through eight, at least a total program hour offering of one thousand nine hundred eighty hours. A minimum of eighty-five percent of the total program hour offerings shall be in the basic skills areas

of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(e) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, foreign language, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills: *Provided*, That each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours.

(3) In order to provide flexibility to the local school districts in the setting of their curricula, and in order to maintain the intent of this legislation, which is to stress the instruction of basic skills and work skills, any local school district may establish minimum course mix percentages that deviate by up to five percentage points above or below those minimums required by subsection (2) of this section, so long as the total program hour requirement is still met.

(4) Nothing contained in subsection (2) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.58.190, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: *Provided*, That effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent

they could otherwise have been so claimed for the purposes of RCW 28A.41.130 and 28A.41.140, each as now or hereafter amended.

(6) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.41.130 and 28A.41.140, each as now or hereafter amended, and such related supplemental program approval requirements as the state board may establish: *Provided*, That each school district board of directors shall establish the basis and means for determining and monitoring the district's compliance with the basic skills and work skills percentage and course requirements of this section. The certification of the board of directors and the superintendent of a school district that the district is in compliance with such basic skills and work skills requirements may be accepted by the superintendent of public instruction and the state board of education.

(7) Handicapped education programs, vocational-technical institute programs, state institution and state residential school programs, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.

(8) Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the reduction. [1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3.]

Severability—1982 c 158: "If any provision of this 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." [1982 c 158 § 8.] This applies to RCW 28A.01.020, 28A.41.130, 28A.58.370, 28A.58.754, 28A.59.180 and the repeal of RCW 28A.35.010, 28A.35.020, 28A.35.030, 28A.35.070 and 28A.58.180.

Effective date—1979 ex.s. c 250: "This 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 except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.] Section 1 and section 2 of this amendatory act, 1979 ex.s. c 250, are codified as RCW 28A.58.754 and 28A.41.130, respectively; for disposition of remaining sections of this act, see note below.

Severability—1979 ex.s. c 250: "If any provision of this 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." [1979 ex.s. c 250 § 11.]

The above two annotations apply to RCW 28A.41.130, 28A.41.140, 28A.41.170, 28A.58.053, 28A.58.190, 28A.58.754, 28A.58.758 and 28A.58.760.

Effective date—Severability—1977 ex.s. c 359: See notes following RCW 28A.58.750.

Basic Education Act of 1977—Rules adopted pursuant to as subject to legislative review: RCW 28A.58.756.

Chapter 28A.59

PROVISIONS APPLICABLE ONLY TO FIRST CLASS DISTRICTS

Sections

28A.59.180	Additional powers of board (as amended by 1982 c 158).
28A.59.180	Additional powers of board (as amended by 1982 c 191).
28A.59.185	Permanent insurance fund—Budget item—Investment.

28A.59.180 Additional powers of board (as amended by 1982 c 158). Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in chapter 28A.58 RCW or elsewhere in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him; and to fix his duties and compensation.

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To, in addition to the minimum requirements imposed by Title 28A RCW, as now or hereafter amended, establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of handicapped youth, as in the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: *Provided*, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school, when so ordered by a vote of the electors; or if the free textbooks are not voted by the electors, to provide books for children of indigent parents, on the written statement of the city superintendent that the parents of such children are not able to purchase them.

(10) To require of the officers or employees of the district to give a bond for the faithful discharge of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure; he or authorized deputies shall make monthly inspections of each school in the district and report the condition of the same to the board of education and board of health: *Provided*, That children shall not be required to submit to vaccination against the will of their parents or guardian. [1982 c 158 § 6; 1969 ex.s. c 223 § 28A.59.180. Prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28.62-.180, 28.31.070.]

Severability—1982 c 158: See note following RCW 28A.58.754.

28A.59.180 Additional powers of board (as amended by 1982 c 191). Every board of directors of a school district of the first class, in

addition to the general powers for directors enumerated in chapter 28A.58 RCW or elsewhere in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him; and to fix his duties and compensation.

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of handicapped youth, as in the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: *Provided*, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school, when so ordered by a vote of the electors; or if the free textbooks are not voted by the electors, to provide books for children of indigent parents, on the written statement of the city superintendent that the parents of such children are not able to purchase them.

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district: *Provided*, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure; he or authorized deputies shall make monthly inspections of each school in the district and report the condition of the same to the board of education and board of health: *Provided*, That children shall not be required to submit to vaccination against the will of their parents or guardian. [1982 c 191 § 11; 1969 ex.s. c 223 § 28A.59.180. Prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28.62-.180, 28.31.070.]

Reviser's note: RCW 28A.59.180 was amended twice during the 1982 regular session of the legislature, each without reference to the other.

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

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

28A.59.185 Permanent insurance fund—Budget item—Investment. School districts of the first class, when in the judgment of the board of directors it be deemed expedient, shall have power to create and maintain a permanent insurance fund for said districts, to be used to meet losses specified by the board of directors of the school districts.

Funds required for maintenance of such a permanent insurance fund shall be budgeted and allowed as are other funds required for the support of the school district.

The county treasurer or other custodian of such fund, when authorized to do so by the board of directors of any school district, may invest any accumulated moneys in such permanent insurance fund in like manner as for the investment or reinvestment of other school funds as provided in RCW 28A.58.440. [1982 c 191 § 12; 1969 ex.s. c 223 § 28A.59.185. Prior: (i) 1911 c 79 § 1; RRS § 4707. Formerly RCW 28.59.010. (ii) 1911 c 79 § 2; RRS § 4708. Formerly RCW 28.59.020. (iii) 1941 c 187 § 1; 1911 c 79 § 3; Rem. Supp. 1941 § 4709. Formerly RCW 28.59.030.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Chapter 28A.87

OFFENSES RELATING TO SCHOOLS, SCHOOL PERSONNEL—PENALTIES

Sections

28A.87.120 Defacing or injuring school property—Liability of pupil, parent or guardian—Voluntary work program as alternative—Rights protected.

28A.87.120 Defacing or injuring school property—Liability of pupil, parent or guardian—Voluntary work program as alternative—Rights protected. (1) Any pupil who shall deface or otherwise injure any school property, shall be liable to suspension and punishment. Any school district whose property has been lost or wilfully cut, defaced, or injured, may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected. [1982 c 38 § 1; 1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28.87.120.]

Action against parent for wilful injury to property by minor—Monetary limitation—Common law liability preserved: RCW 4.24.190.

Title 28B

HIGHER EDUCATION

Chapters

- 28B.04 Displaced homemaker act.
- 28B.10 Colleges and universities generally.
- 28B.14G 1981 Bond issue for capital improvements for institutions of higher education (1981 c 233).
- 28B.15 College and university fees.
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- 28B.50 Community college act of 1967 (and community colleges generally).
- 28B.80 Council for postsecondary education in the state of Washington.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Temporary committee on educational policies, structure and management: See notes following Title 28A RCW digest.

Chapter 28B.04

DISPLACED HOMEMAKER ACT

Sections

- 28B.04.020 Legislative findings—Purpose.
- 28B.04.040 Multipurpose service centers—Contracts for—Rules embodying standards for—Funds for.
- 28B.04.050 Multipurpose service centers—Referral to services by—Displaced homemakers as staff.
- 28B.04.060 Contracting for specific programs.
- 28B.04.070 Evaluation, when—Recommendations.
- 28B.04.080 Consultation and cooperation with other agencies—Agency report of available services and funds therefor—Council as clearinghouse for information and resources.
- 28B.04.130 Repealed.

28B.04.020 Legislative findings—Purpose. The legislature finds that homemakers are an unrecognized part of the work force who make an invaluable contribution to the strength, durability, and purpose of our state.

The legislature further finds that there is an increasing number of persons in this state who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, disability of spouse, or other loss of family income of a spouse. As a consequence, displaced homemakers are very often left with little or no income; they are ineligible for categorical welfare assistance; they are subject to the highest rate of unemployment of any sector of the work force; they face continuing discrimination in employment because of their age and lack of recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for social security benefits because they are too young, and many never qualify because they have been divorced from the family wage earner; they may have lost beneficiaries' rights under employer's pension and health plans through divorce

or death of spouse; and they are often unacceptable to private health insurance plans because of their age.

It is the purpose of this chapter to establish guidelines under which the council for postsecondary education shall contract to establish multipurpose service centers and programs to provide necessary training opportunities, counseling, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life. [1982 1st ex.s. c 15 § 1; 1979 c 73 § 2.]

Expiration date—1982 1st ex.s. c 15: "The provisions of this 1982 act shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time." [1982 1st ex.s. c 15 § 11.] 1982 1st ex.s. c 15 consists of amendments to RCW 28B.04.020, 28B.04.040, 28B.04.050, 28B.04.060, 28B.04.070, 28B.04.080, 36.18.010 and the repeal of RCW 28B.04.130.

28B.04.040 Multipurpose service centers—Contracts for—Rules embodying standards for—Funds for. (1) The council, in consultation with state and local governmental agencies, community groups, and local and national organizations concerned with displaced homemakers, shall receive applications and may contract with public or private nonprofit organizations to establish multipurpose service centers for displaced homemakers. In determining sites and administering agencies or organizations for the centers, the council shall consider the experience and capabilities of the public or private nonprofit organizations making application to provide services to a center.

(2) Not later than ninety days after June 7, 1979, the council shall issue rules prescribing the standards to be met by each center in accordance with the policies set forth in this chapter. Continuing funds for the maintenance of each center shall be contingent upon the determination by the council that the center is in compliance with the contractual conditions and with the rules prescribed by the council. [1982 1st ex.s. c 15 § 2; 1979 c 73 § 4.]

Expiration date—1982 1st ex.s. c 15: See note following RCW 28B.04.020.

28B.04.050 Multipurpose service centers—Referral to services by—Displaced homemakers as staff. (1) Each center contracted for under this chapter shall include or provide information and referral to the following services:

(a) Job counseling services which shall:

- (i) Be specifically designed for displaced homemakers;
- (ii) Counsel displaced homemakers with respect to appropriate job opportunities; and
- (iii) Take into account and build upon the skills and experience of a homemaker and emphasize job readiness as well as skill development;

(b) Job training and job placement services which shall:

- (i) Emphasize short-term training programs and programs which expand upon homemaking skills and volunteer experience and which lead to gainful employment;
- (ii) Develop, through cooperation with state and local government agencies and private employers, model

training and placement programs for jobs in the public and private sectors;

(iii) Assist displaced homemakers in gaining admission to existing public and private job training programs and opportunities, including vocational education and apprenticeship training programs; and

(iv) Assist in identifying community needs and creating new jobs in the public and private sectors;

(c) Health counseling services, including referral to existing health programs, with respect to:

(i) General principles of preventative health care;

(ii) Health care consumer education, particularly in the selection of physicians and health care services, including, but not limited to, health maintenance organizations and health insurance;

(iii) Family health care and nutrition;

(iv) Alcohol and drug abuse; and

(v) Other related health care matters;

(d) Financial management services which provide information and assistance with respect to insurance, taxes, estate and probate problems, mortgages, loans, and other related financial matters;

(e) Educational services, including:

(i) Outreach and information about courses offering credit through secondary or postsecondary education programs, and other re-entry programs, including bilingual programming where appropriate; and

(ii) Information about such other programs as are determined to be of interest and benefit to displaced homemakers by the council;

(f) Legal counseling and referral services; and

(g) Outreach and information services with respect to federal and state employment, education, health, public assistance, and unemployment assistance programs which the council determines would be of interest and benefit to displaced homemakers.

(2) The staff positions of each multipurpose center contracted for in accordance with RCW 28B.04.040, including supervisory, technical, and administrative positions, shall, to the maximum extent possible, be filled by displaced homemakers. [1982 1st ex.s. c 15 § 3; 1979 c 73 § 5.]

Expiration date—1982 1st ex.s. c 15: See note following RCW 28B.04.020.

28B.04.060 Contracting for specific programs. The council may contract, where appropriate, with public or private nonprofit groups or organizations serving the needs of displaced homemakers for programs designed to:

(1) Provide direct services to displaced homemakers, including job counseling, job training and placement, health counseling, financial management, educational counseling, legal counseling, and referral services as described in RCW 28B.04.050;

(2) Provide state-wide outreach and information services for displaced homemakers; and

(3) Provide training opportunities for persons serving the needs of displaced homemakers, including those persons in areas not directly served by programs and centers

established under this chapter. [1982 1st ex.s. c 15 § 4; 1979 c 73 § 6.]

Expiration date—1982 1st ex.s. c 15: See note following RCW 28B.04.020.

28B.04.070 Evaluation, when—Recommendations.

The council shall submit to the legislature an evaluation at the end of the first two years and a biennial evaluation beginning in January 1984. The evaluations may include recommendation for future programs as determined by the council. [1982 1st ex.s. c 15 § 5; 1979 c 73 § 7.]

Expiration date—1982 1st ex.s. c 15: See note following RCW 28B.04.020.

28B.04.080 Consultation and cooperation with other agencies—Agency report of available services and funds therefore—Council as clearinghouse for information and resources.

(1) The council shall consult and cooperate with the department of social and health services; the state board for community college education; the superintendent of public instruction; the commission for vocational education; the employment security department; the department of labor and industries; sponsoring agencies under the federal comprehensive employment and training act (87 Stat. 839; 29 U.S.C. Sec. 801 et seq.), and any other persons or agencies as the council deems appropriate to facilitate the coordination of centers established under this chapter with existing programs of a similar nature.

(2) Annually on July 1st, each agency listed in subsection (1) of this section shall submit a description of each service or program under its jurisdiction which would support the programs and centers established by this chapter and the funds available for such support.

(3) The council shall serve as a clearinghouse for displaced homemaker information and resources and shall compile and disseminate state-wide information to the centers, related agencies, and interested persons upon request. [1982 1st ex.s. c 15 § 6; 1979 c 73 § 8.]

Expiration date—1982 1st ex.s. c 15: See note following RCW 28B.04.020.

28B.04.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28B.10

COLLEGES AND UNIVERSITIES GENERALLY

Sections

28B.10.200	Repealed.
28B.10.215	Blind students, assistance to—Allocation of funds.
28B.10.220	Blind students, assistance to—Administration of funds.
28B.10.250	through 28B.10.260 Repealed.
28B.10.644	Management employee performance evaluations—Procedures.
28B.10.645	Management employee performance evaluations—Merit increases in salary.
28B.10.646	"Management employees" defined.

28B.10.200 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.10.215 Blind students, assistance to—Allocation of funds.

There is allocated to each and every blind student attending any institution of higher education within the state a sum not to exceed two hundred dollars per quarter, or so much thereof as may be necessary in the opinion of the council for postsecondary education in the state of Washington, to provide said blind student with readers, books, recordings, recorders, or other means of reproducing and imparting ideas, while attending said institution of higher education: *Provided*, That said allocation shall be made out of any moneys in the general fund not otherwise appropriated. [1982 1st ex.s. c 37 § 6; 1974 ex.s. c 68 § 1; 1969 ex.s. c 223 § 28B.10-.215. Prior: 1955 c 175 § 1; 1949 c 232 § 2; 1935 c 154 § 2; Rem. Supp. 1949 § 4542-2. Formerly RCW 28.76.130.]

Effective date—**Severability**—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

28B.10.220 Blind students, assistance to—Administration of funds.

All blind student assistance shall be distributed under the supervision of the council for postsecondary education in the state of Washington. The moneys or any part thereof allocated in the manner referred to in RCW 28B.10.215 shall, for furnishing said books or equipment or supplying said services, be paid by said council directly to the state institution of higher education, directly to such blind student, heretofore mentioned, or to his parents, guardian, or some adult person, if the blind student is a minor, designated by said blind student to act as trustee of said funds, as shall be determined by the council.

The council shall have power to prescribe and enforce all rules and regulations necessary to carry out the provisions of this section and RCW 28B.10.215. [1982 1st ex.s. c 37 § 7; 1974 ex.s. c 68 § 2; 1969 ex.s. c 223 § 28B.10.220. Prior: 1963 c 33 § 1; 1955 c 175 § 2; prior: (i) 1949 c 232 § 3; 1935 c 154 § 3; Rem. Supp. 1949 § 4542-3. (ii) 1935 c 154 § 4; RRS § 4542-4. Formerly RCW 28.76.140.]

Effective date—**Severability**—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

28B.10.250 through 28B.10.260 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.10.644 Management employee performance evaluations—Procedures. (1) The state and regional universities and The Evergreen State College shall develop performance evaluation procedures and forms which shall be used for the appraisal of management employees.

(2) The performance evaluation shall measure management employees' performance within at least five performance rating categories.

(3) Each of these institutions shall adopt rules designed to insure that performance evaluations of management employees do not result in unrealistic concentration in any performance rating category. [1982 1st ex.s. c 53 § 12.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Nonmanagement employee performance evaluations: RCW 28B.16.260.

28B.10.645 Management employee performance evaluations—Merit increases in salary. Beginning on July 1, 1984, management employees shall be subject to performance evaluation using the procedures developed under RCW 28B.10.644. Such employees may be granted merit increases in salary, based on performance, as determined by each institution for its employees. [1982 1st ex.s. c 53 § 13.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.10.646 "Management employees" defined. Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

"Management employees" mean administrative exempt personnel of each institution of higher education who are specified by each institution as management. [1982 1st ex.s. c 53 § 11.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Chapter 28B.14G

1981 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION (1981 C 233)

Sections

28B.14G.900 Construction—Provisions as subordinate in nature.

28B.14G.900 Construction—Provisions as subordinate in nature. No provision of this chapter shall be deemed to repeal, override, or limit any provision of RCW 28B.15.210, 28B.15.310, 28B.15.402, 28B.20.700 through 28B.20.745, 28B.30.700 through 28B.30.780, or 28B.35.700 through 28B.35.790, nor any provision or covenant of the proceedings of the board of regents or board of trustees of any state institution of higher education hereafter taken in the issuance of its revenue bonds secured by a pledge of its general tuition fees and/or other revenues mentioned within such statutes. The obligation of the board to make the transfers provided for in RCW 28B.14G.060, chapters 28B.14C and 28B.14D RCW, and RCW 28B.20.757 shall be subject and subordinate to the lien and charge of any revenue bonds hereafter issued against general tuition fees and/or other revenues pledged to pay and secure such bonds, and on the moneys in the building account, capital project account, the individual institutions of higher education bond retirement funds and the University of

Washington hospital local fund. [1982 1st ex.s. c 48 § 14; 1981 c 233 § 9.]

Severability—1982 1st ex.s. c 48: See note following RCW 28C.51.010.

Chapter 28B.15

COLLEGE AND UNIVERSITY FEES

Sections

- 28B.15.012 Classification as resident or nonresident student—Definitions.
- 28B.15.013 Classification as resident or nonresident student—Standards for determining domicile in the state—Presumptions—Cut-off date for classification application change.
- 28B.15.014 Certain nonresidents exempted from tuition and fee differential.
- 28B.15.015 Classification as resident or nonresident student—Council to adopt rules relating to students' residency status, recovery of fees.
- 28B.15.031 "Operating fees"—Defined—Disposition.
- 28B.15.067 General tuition and operating fees—Established and adjusted biennially.
- 28B.15.070 Development of definitions, criteria and procedures for the educational costs of instruction.
- 28B.15.076 Council to transmit amounts constituting approved educational costs, when.
- 28B.15.100 General tuition and fees set by individual institutions—Limitations—Tuition and fees for certain part time, additional time, and out-of-state students.
- 28B.15.202 General tuition and fees—University of Washington and Washington State University—Services and activities fee, maximum.
- 28B.15.402 General tuition and fees—Regional universities and The Evergreen State College—Services and activities fee, maximum.
- 28B.15.502 General tuition and fees—Community colleges—Services and activities fees, maximum—Fees for summer school and certain courses.
- 28B.15.520 Community colleges—Waiver of fees—Purpose.
- 28B.15.523 through 28B.15.530 Repealed.
- 28B.15.550 through 28B.15.557 Repealed.
- 28B.15.710 Repealed.
- 28B.15.740 Limitation on total tuition and fee waivers.
- 28B.15.742 Repealed.
- 28B.15.744 Repealed.
- 28B.15.820 Institutional long-term loan fund—Created—Use—Deposits in—Loan terms and conditions—Collection—Short-term interim loans authorized—Rules and regulations.
- 28B.15.825 Fiscal 1982 loan fund deposit may be used for local purposes.

28B.15.012 Classification as resident or nonresident student—Definitions. Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean (a) a financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which he has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational or (b) a dependent student, if one or both of his parents or legal guardians have maintained a bona fide domicile in the state of Washington

for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution: *Provided*, That a non-resident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that he has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended. A nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service and who does not also meet and comply with all the applicable requirements in RCW 28B.15.011 through 28B.15.014 and 28B.15.015, each as now or hereafter amended.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where he intends to remain, and to which he expects to return when he leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the council for postsecondary education and shall include, but not be limited to, the state and federal income tax returns of the person and/or his parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(6) The terms "he" or "his" shall apply to the female as well as the male sex unless the context clearly requires otherwise. [1982 1st ex.s. c 37 § 1; 1972 ex.s. c 149 § 1; 1971 ex.s. c 273 § 2.]

Use of general fund moneys authorized—Expiration date—1982 1st ex.s. c 37: "(1) Up to \$1,076,000 may be used by the University of Washington from program 04 and 08 sources of general fund—state moneys under section 84, chapter 340, Laws of 1981 as amended by chapter 14, Laws of 1981 2nd ex. sess., and by chapter 50 (Engrossed Substitute Senate Bill No. 4369), Laws of 1982 1st ex. sess., to supplement the stipends of teaching assistants, research assistants and medical residents.

(2) Up to \$649,000 may be used by Washington State University from program 04 and 08 sources of general fund—state moneys under

section 85, chapter 340, Laws of 1981 as amended by chapter 14, Laws of 1981 2nd ex. sess., and by chapter 50 (Engrossed Substitute Senate Bill No. 4369), Laws of 1982 1st ex. sess., to supplement the stipends of teaching assistants and research assistants.

(3) The provisions of this section shall expire on June 30, 1983." [1982 1st ex.s. c 37 § 21.]

Appropriation—1982 1st ex.s. c 37: "Five hundred fifty thousand dollars from the state general fund is appropriated to the council for postsecondary education to be used to supplement the state financial aid programs authorized under RCW 28B.80.240." [1982 1st ex.s. c 37 § 22.]

Effective date—1982 1st ex.s. c 37: "Sections 13 and 14 of this 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 immediately. All other sections of this amendatory act shall take effect on June 1, 1982." [1982 1st ex.s. c 37 § 24.] Sections 13 and 14 of 1982 1st ex.s. c 37, which took effect April 20, 1982, are codified as RCW 28B.15-820 and 28B.15.825. For disposition of other sections, see severability section quoted below.

Severability—1982 1st ex.s. c 37: "If any provision of this 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." [1982 1st ex.s. c 37 § 23.] This applies to the enactment of RCW 28B.15.015 and 28B.15.825, the amendments to RCW 28B.10.215, 28B.10.220, 28B.15.012, 28B.15.013, 28B.15.014, 28B.15.031, 28B.15.067, 28B.15.070, 28B.15.076, 28B.15.100, 28B.15.202, 28B.15.402, 28B.15.502, 28B.15.520, 28B.15.740, 28B.15.820, and 41.04.005, and the repeal of RCW 28B.10.200, 28B.10.250, 28B.10.255, 28B.10.260, 28B.15.523, 28B.15.525, 28B.15.530, 28B.15.550, 28B.15.551, 28B.15.552, 28B.15.553, 28B.15.554, 28B.15.557, 28B.15.710, 28B.15.742, and 28B.15.744 by 1982 1st ex.s. c 37.

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.013 Classification as resident or nonresident student—Standards for determining domicile in the state—Presumptions—Cut-off date for classification application change. (1) The establishment of a new domicile in the state of Washington by a person formerly domiciled in another state has occurred if such person is physically present in Washington primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Washington.

(2) Unless proven to the contrary it shall be presumed that:

(a) The domicile of any person shall be determined according to the individual's situation and circumstances rather than by marital status or sex.

(b) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington; any resident dependent student who remains in this state when such student's parents, having theretofore been domiciled in this state for a period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution, remove from this state, shall be entitled to continued

classification as a resident student so long as such student's attendance (except summer sessions) at an institution in this state is continuous.

(3) To aid the institution in deciding whether a student, parent, legally appointed guardian or the person having legal custody of a student is domiciled in the state of Washington primarily for purposes other than educational, the rules and regulations adopted by the council for postsecondary education shall include but not limited to the following:

(a) Registration or payment of Washington taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person for which state registration or the payment of a state tax or fee is required will be a factor in considering evidence of the establishment of a Washington domicile.

(b) Permanent full time employment in Washington by a person will be a factor in considering the establishment of a Washington domicile.

(c) Registration to vote for state officials in Washington will be a factor in considering the establishment of a Washington domicile.

(4) After a student has registered at an institution such student's classification shall remain unchanged in the absence of satisfactory evidence to the contrary. A student wishing to apply for a change in classification shall reduce such evidence to writing and file it with the institution. In any case involving an application for a change from nonresident to resident status, the burden of proof shall rest with the applicant. Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution and, if approved, shall take effect the semester or quarter such evidence was filed with the institution: *Provided*, That applications for a change in classification shall be accepted up to the thirtieth calendar day following the first day of instruction of the quarter or semester for which application is made. Any determination of classification shall be considered a ruling on a contested case subject to court review only under procedures prescribed by chapter 28B.19 RCW. [1982 1st ex.s. c 37 § 2; 1979 ex.s. c 15 § 1; 1972 ex.s. c 149 § 2; 1971 ex.s. c 273 § 3.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.014 Certain nonresidents exempted from tuition and fee differential. The following nonresidents shall be exempted from paying the nonresident tuition and fee differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who resides in the state of Washington, and the dependent children and spouse of such persons. [1982 1st ex.s. c 37 § 3; 1971 ex.s. c 273 § 4.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.015 Classification as resident or nonresident student—Council to adopt rules relating to students' residency status, recovery of fees. The council for postsecondary education, upon consideration of advice from representatives of the state's institutions with the advice of the attorney general, shall adopt rules and regulations to be used by the state's institutions for determining a student's resident and nonresident status and for recovery of fees for improper classification of residency. [1982 1st ex.s. c 37 § 4.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

28B.15.031 "Operating fees"—Defined—Disposition. The term "operating fees" as used in this chapter shall include the fees, other than general tuition fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be transmitted to the state treasurer within thirty-five days of receipt to be deposited in the state general fund: *Provided*, That two and one-half percent of moneys received as operating fees be exempt from such deposit and be retained by the institutions for the purposes of RCW 28B.15.820. [1982 1st ex.s. c 37 § 12; 1981 c 257 § 1; 1979 c 151 § 14; 1977 ex.s. c 331 § 3; 1971 ex.s. c 279 § 2.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.102.

Severability—1981 c 257: "If any provision of this 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." [1981 c 257 § 13.] This applies

to RCW 28B.15.031, 28B.15.067, 28B.15.070, 28B.15.076, 28B.15.100, 28B.15.202, 28B.15.402, 28B.15.502, 28B.15.805 and 28B.15.820, and the repeal of RCW 28B.15.060, 28B.15.075, 28B.15.201, 28B.15.401 and 28B.15.500.

Effective date—1977 ex.s. c 331: "The effective date of this 1977 amendatory act shall be September 1, 1977." [1977 ex.s. c 331 § 5.]

Severability—1977 ex.s. c 331: "If any provision of this 1977 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." [1977 ex.s. c 331 § 4.]

The above two annotations apply to RCW 28B.15.031, 28B.50.142 and 28B.50.143.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Fiscal 1982 loan fund deposit may be used for local purposes: RCW 28B.15.825.

28B.15.067 General tuition and operating fees—**Established and adjusted biennially.** General tuition and operating fees shall be established and adjusted biennially under the provisions of this chapter beginning with the 1983–84 academic year. Such fees shall be identical, subject to other provisions of this chapter, for students enrolled at either state university, for students enrolled at the regional universities and The Evergreen State College and for students enrolled at any community college. The general tuition and operating fees shall reflect the undergraduate and graduate educational costs of the state universities, the regional universities and the community colleges, respectively, in the amounts herein prescribed. [1982 1st ex.s. c 37 § 15; 1981 c 257 § 2.]

Effective date—**Severability**—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.070 Development of definitions, criteria and procedures for the educational costs of instruction. The house and senate higher education committees shall develop, in cooperation with the council for postsecondary education and the respective fiscal committees of the house and senate, the office of financial management and the state institutions of higher education no later than December 1981, and at each two year interval thereafter, definitions, criteria and procedures for determining the undergraduate and graduate educational costs for the state universities, regional universities and community colleges upon which general tuition and operating fees will be based. In the event that no action is taken or disagreement exists between the committees as of that date, the recommendations of the council shall be deemed to be approved. [1982 1st ex.s. c 37 § 16; 1981 c 257 § 3; 1977 ex.s. c 322 § 7.]

Effective date—**Severability**—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

28B.15.076 Council to transmit amounts constituting approved educational costs, when. The council for postsecondary education shall determine and transmit amounts constituting approved undergraduate and graduate educational costs to the several boards of regents

and trustees of the state institutions of higher education by November 10 of each even-numbered year. General tuition fees and operating fees shall be based on such costs in accordance with the provisions of this chapter. [1982 1st ex.s. c 37 § 17; 1981 c 257 § 4.]

Effective date—**Severability**—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.100 General tuition and fees set by individual institutions—**Limitations**—**Tuition and fees for certain part time, additional time, and out-of-state students.**

(1) The board of regents or board of trustees at each of the state's regional and state universities and at The Evergreen State College shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such general tuition fees, operating fees, services and activities fees, and other fees as such board shall in its discretion determine, the total of all such fees, the general tuition fee, operating fee, and services and activities fee, to be rounded-out to the nearest whole dollar amount: *Provided*, That such general tuition fees and operating fees for other than summer session quarters or semesters shall be in the amounts for the respective institutions as otherwise set forth in this chapter, as now or hereafter amended: *Provided further*, That the fees charged by boards of trustees of community college districts shall be in the amounts for the respective institutions as otherwise set forth in this chapter, as now or hereafter amended.

(2) Part time students shall be charged general tuition, operating, and services and activities fees proportionate to full time student rates established for residents and nonresidents: *Provided*, That students registered for fewer than two credit hours shall be charged general tuition, operating, and services and activities fees at the rate established for two credit hours: *Provided further*, That residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during any quarter or semester may be allowed to enroll at resident tuition and fee rates upon a declaration by the council for postsecondary education that it finds Washington residents from such community college district are afforded substantially equivalent treatment by such other states or that, until June 30, 1983, it is in the interest of the residents of such community college district to authorize the exchange of educational opportunities between Washington and other such states on a resident tuition and fee basis.

(3) Full-time students registered for more than eighteen credit hours shall be charged an additional operating fee for each credit hour in excess of eighteen hours at the established per credit hour general tuition and operating fee rate applicable to part-time students in the respective institutional tuition and fee rate categories set forth in this chapter: *Provided*, That the boards of regents of the University of Washington and Washington State University may exempt students who are registered exclusively in first professional programs in medicine, dental medicine, veterinary medicine and law: *Provided further*, That the state board for community

college education may exempt students who are registered exclusively in required courses in vocational preparatory programs from the additional charge. [1982 1st ex.s. c 37 § 11; 1981 c 257 § 5; 1977 ex.s. c 322 § 2; 1977 ex.s. c 169 § 36; 1971 ex.s. c 279 § 5; 1969 ex.s. c 223 § 28B.15.100. Prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81-.080, part.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

Severability—1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.202 General tuition and fees—University of Washington and Washington State University—Services and activities fee, maximum. General tuition fees, operating fees, and services and activities fees at the University of Washington and at Washington State University for other than summer quarters or semesters shall be as follows: *Provided*, That increases in tuition and fee rates for the 1982 summer session shall reflect the increases set forth below for the 1982–83 academic year:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981–82 academic year shall be nine hundred and twenty-one dollars, and for the 1982–83 academic year shall be one thousand and thirty-eight dollars, and thereafter such fees shall be one-third of the per student undergraduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be one hundred and twenty dollars.

(2) For full time resident graduate students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981–82 academic year shall be one thousand one hundred and one dollars, and for the 1982–83 academic year shall be one thousand five hundred and sixty-three dollars, and thereafter such fees shall be

twenty-three percent of the per student graduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be one hundred and twenty dollars.

(3) For full time resident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981–82 academic year shall be one thousand seven hundred and ninety-one dollars, and for the 1982–83 academic year shall be two thousand six hundred and seven dollars, and thereafter such fees shall be one hundred sixty-seven percent of such fees charged in subsection (2) above: *Provided*, That the general tuition fee for each academic year shall be three hundred and forty-two dollars.

(4) For full time nonresident undergraduate students and such other full time nonresident students not in graduate study programs or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine, the total of general tuition and operating fees for the 1981–82 academic year shall be two thousand nine hundred and ten dollars, and for the 1982–83 academic year shall be three thousand one hundred and seventeen dollars, and thereafter such fees shall be one hundred percent of the per student undergraduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be three hundred and fifty-four dollars.

(5) For full time nonresident graduate students not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981–82 academic year shall be three thousand four hundred and fifty-two dollars, and for the 1982–83 academic year shall be four thousand and seventy-four dollars, and thereafter such fees shall be sixty percent of the per student graduate educational costs at the state universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be three hundred and fifty-four dollars.

(6) For full time nonresident students enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, the total of general tuition and operating fees for the 1981–82 academic year shall be five thousand five hundred and ninety-two dollars, and for the 1982–83 academic year shall be six thousand eight hundred and four dollars, and thereafter such fees shall be one hundred sixty-seven percent of such fees charged in subsection (5) above: *Provided*, That the general tuition fee for each academic year shall be five hundred and fifty-five dollars.

(7) The boards of regents of each of the state universities shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) through (6) hereof a services

and activities fee which for each year of the 1981–83 biennium shall not exceed one hundred and thirty–eight dollars. In subsequent biennia the board of regents may increase the existing fee, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the percentage increase in tuition and operating fees authorized in subsection (1) above: *Provided*, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase. [1982 1st ex.s. c 37 § 18; 1981 c 257 § 6.]

Effective date—Severability—Expiration date—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.402 General tuition and fees—Regional universities and The Evergreen State College—Services and activities fee, maximum. General tuition fees, operating fees, and services and activities fees at the regional universities and The Evergreen State College for other than summer quarters or semesters shall be as follows: *Provided*, That increases in tuition and fee rates for the 1982 summer session shall reflect the increases set forth below for the 1982–83 academic year:

(1) For full time resident undergraduate students and all other full time resident students not in graduate study programs, the total of general tuition and operating fees for the 1981–82 academic year shall be six hundred eighty–two dollars and fifty cents, and for the 1982–83 academic year shall be seven hundred fifty–seven dollars and fifty cents, and thereafter such fees shall be one–fourth of the per student undergraduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be seventy–six dollars and fifty cents.

(2) For full time resident graduate students, the total of general tuition and operating fees for the 1981–82 academic year shall be eight hundred eleven dollars and fifty cents, and for the 1982–83 academic year shall be one thousand one hundred thirty–five dollars and fifty cents, and thereafter such fees shall be twenty–three percent of the per student graduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year thereafter shall be seventy–six dollars and fifty cents.

(3) For full time nonresident undergraduate students and all other full time nonresident students not in graduate study programs, the total of general tuition and operating fees for the 1981–82 academic year shall be two thousand seven hundred twenty–five dollars and fifty cents, and for the 1982–83 academic year shall be three thousand twenty–five dollars and fifty cents, and thereafter such fees shall be one hundred percent of the per student undergraduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general

tuition fee for each academic year shall be two hundred and ninety–five dollars and fifty cents.

(4) For full time nonresident graduate students, the total of general tuition and operating fees for the 1981–82 academic year shall be three thousand two hundred fifty dollars and fifty cents, and for the 1982–83 academic year shall be three thousand six hundred ninety–seven dollars and fifty cents, and thereafter such fees shall be seventy–five percent of the per student graduate educational costs at the regional universities computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be two hundred and ninety–five dollars and fifty cents.

(5) The boards of trustees of each of the regional universities and The Evergreen State College shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) through (4) hereof a services and activities fee which for each year of the 1981–83 biennium shall not exceed one hundred eighty–four dollars and fifty cents. In subsequent biennia the board of trustees may increase the existing fee, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the percentage increase in tuition and operating fees authorized in subsection (1) above: *Provided*, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase. [1982 1st ex.s. c 37 § 19; 1981 c 257 § 7.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.502 General tuition and fees—Community colleges—Services and activities fees, maximum—Fees for summer school and certain courses. General tuition fees, operating fees and services and activities fees at each community college other than at summer quarters shall be as follows: *Provided*, That increases in tuition and fee rates for the 1982 summer session shall reflect the increases set forth below for the 1982–83 academic year:

(1) For full time resident students, the total of general tuition and operating fees for the 1981–82 academic year shall be four hundred six dollars and fifty cents, and for the 1982–83 academic year shall be four hundred fifty–four dollars and fifty cents, and thereafter such fees shall be twenty–three percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be one hundred and twenty–seven dollars and fifty cents.

(2) For full time nonresident students, the total of general tuition and operating fees for the 1981–82 academic year shall be one thousand seven hundred sixty–five dollars and fifty cents, and for the 1982–83 academic year shall be one thousand nine hundred seventy–

two dollars and fifty cents, and thereafter such fees shall be one hundred percent of the per student educational costs at the community colleges computed as provided in RCW 28B.15.067 and 28B.15.070: *Provided*, That the general tuition fee for each academic year shall be four hundred and three dollars and fifty cents.

(3) The boards of trustees of each of the state community colleges shall charge and collect equally from each of the students registering at the particular institution and included in subsections (1) and (2) hereof a services and activities fee which for each year of the 1981–83 biennium shall not exceed sixty-four dollars and fifty cents. In subsequent biennia the board of trustees may increase the existing fee, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the percentage increase in tuition and operating fees authorized in subsection (1) above: *Provided*, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(4) General tuition, operating fees and services and activities fees consistent with the above schedule will be fixed by the state board for community colleges for summer school students.

The board of trustees shall charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting short courses as it, in its discretion, may determine, not inconsistent with the rules and regulations of the state board for community college education. [1982 1st ex.s. c 37 § 10; 1981 c 257 § 8.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

28B.15.520 Community colleges—Waiver of fees—Purpose. Notwithstanding any other provision of this chapter or chapter 28B.50 RCW as now or hereafter amended boards of trustees of the various community colleges shall waive general tuition fees, operating fees, and services and activities fees for students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate, and the various community college boards may waive the general tuition, operating and services and activities fees for children after the age of nineteen years of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state. [1982 1st ex.s. c 37 § 8; 1979 ex.s. c 148 § 1; 1973 1st ex.s. c 191 § 2; 1971 ex.s. c 279 § 12; 1970 ex.s. c 59 § 8; 1969 ex.s. c 261 § 29. Formerly RCW 28.85.310, part.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Effective date—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: "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." [1970 ex.s. c 59 § 11.] This applies to RCW 28B.15.520, 28B.15.523, 28B.15.525, 28B.50.320 and 28B.50.350.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.15.523 through 28B.15.530 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.550 through 28B.15.557 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.710 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.740 Limitation on total tuition and fee waivers. (1) The boards of trustees or regents of each of the state's regional universities, The Evergreen State College, or state universities, and the various community colleges, consistent with regulations and procedures established by the state board for community college education, may waive, in whole or in part, tuition, operating, and services and activities fees subject to the limitations set forth in subsection (2).

(2) The total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college, shall not exceed four percent, and for the community colleges considered as a whole, such amount shall not exceed three percent of an amount determined by estimating the total collections from tuition, operating, and services and activities fees had no such waivers been made and deducting the portion of that total amount which is attributable to the difference between resident and nonresident fees: *Provided*, That at least three-fourths of the dollars waived shall be for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 through 28B.15.015: *Provided further*, That the remainder of the dollars waived, not to exceed one-fourth of the total, may be applied to other students at the discretion of the board of trustees or regents, except on the basis of participation in intercollegiate athletic programs. [1982 1st ex.s. c 37 § 9; 1980 c 62 § 1; 1979 ex.s. c 262 § 1.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1979 ex.s. c 262: "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." [1979 ex.s. c 262 § 5.]

28B.15.742 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.744 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.15.820 Institutional long-term loan fund—Created—Use—Deposits in—Loan terms and conditions—Collection—Short-term interim loans authorized—Rules and regulations. (1) Each institution of higher education shall deposit two and one-half percent of revenues collected from tuition, operating, and services and activities fees in an institutional long-term loan fund which is hereby created and which shall be held locally. Moneys in such fund shall be used to make guaranteed loans to eligible students.

(2) An "eligible student" for the purposes of this section is a student registered for at least six credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015, and who is a "needy student" as defined in RCW 28B.10.802.

(3) The amount of the loans made under subsection (1) of this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et. seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Each institution is responsible for collection of loans made under subsection (1) of this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of loans under subsection (1) of this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: *Provided*, That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community college education and shall be conducted under procedures adopted by such state board.

(5) Receipts from payment of interest or principle or any other subsidies to which institutions as lenders are entitled, which are paid by or on behalf of borrowers of funds under subsection (1) of this section, shall be deposited in each institution's general local fund and shall be used to cover the costs of making the loans under subsection (1) of this section and maintaining necessary records and making collections under subsection (4) of this section: *Provided*, That such costs shall not exceed

five percent of aggregate outstanding loan principle. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be used for the support of the institution's operating budget.

(6) The boards of regents of the state universities, the boards of trustees of the regional universities and The Evergreen State College, and the state board for community college education, on behalf of the community colleges, shall each adopt necessary rules and regulations to implement this section.

(7) Lending activities under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(8) Short-term interim loans, not to exceed one hundred twenty days, may be made from the institutional long-term loan fund to students eligible for guaranteed student loans and whose receipt of such loans is pending. Such short-term loans shall not be subject to the guarantee restrictions or the constraints of federal law imposed by subsection (3) of this section. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan. [1982 1st ex.s. c 37 § 13; 1981 c 257 § 9.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1981 c 257: See note following RCW 28B.15.031.

Fiscal 1982 loan fund deposit may be used for local purposes: RCW 28B.15.825.

28B.15.825 Fiscal 1982 loan fund deposit may be used for local purposes. Notwithstanding the provisions of RCW 28B.15.031 or 28B.15.820, for the purpose of assisting the various institutions of higher education in meeting emergency financial problems, the institutions are directed to transfer amounts equal to the fiscal 1982 deposit of funds from the institutional loan fund established in RCW 28B.15.820 to their respective local general funds. [1982 1st ex.s. c 37 § 14.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Chapter 28B.16

STATE HIGHER EDUCATION PERSONNEL LAW

Sections

28B.16.020	Definitions.
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28B.16.050	Repealed.
28B.16.100	Rules—Scope.
28B.16.101	Rules—Areas for local administration and management.
28B.16.105	Rules—Standardized employee performance evaluation procedures and forms—Expiration of section.
28B.16.250	Employee performance evaluations—Procedures—Appeal.

- 28B.16.260 Employee performance evaluations—Nonmanagement employees—Increment and merit increases in salary.
- 28B.16.270 Employee performance evaluations—Classified management employees—Increment and merit increases in salary.
- 28B.16.280 Layoff of classified employees—Criteria.
- 28B.16.290 Reemployment from layoff.

28B.16.020 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges;

(2) "Board" means the higher education personnel board established under the provisions of RCW 28B.16.060;

(3) "Related boards" means the state board for community college education and the higher education personnel board; and such other boards, councils and commissions related to higher education as may be established;

(4) "Classified service" means all positions at the institutions of higher education subject to the provisions of this chapter;

(5) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment;

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required;

(7) "Management employees" mean those classified employees under this chapter specified as management by the higher education personnel board, but the board shall not go below range 49, as established in the October 1981 higher education personnel board compensation plan, or its equivalent range in a subsequent compensation plan publication. [1982 1st ex.s. c 53 § 14; 1977 ex.s. c 169 § 41; 1969 ex.s. c 36 § 2. Formerly RCW 28.75.020.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.16.040 Exempted personnel—Right of reversion to civil service status. The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(1) Members of the governing board of each institution and related boards, all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and

who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Student, part time, or temporary employees, and part time professional consultants, as defined by the higher education personnel board, employed by institutions of higher education and related boards.

(3) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(4) The personnel director of the higher education personnel board and his confidential secretary.

(5) The governing board of each institution, and related boards, may also exempt from this chapter, subject to the employees right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: *Provided*, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the higher education personnel board under this provision.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982. [1982 1st ex.s. c 53 § 15; 1977 ex.s. c 94 § 1; 1969 ex.s. c 36 § 4. Formerly RCW 28.75.040.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.16.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.16.100 Rules—Scope. The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The dismissal, suspension, or demotion of an employee, and appeals therefrom;

(2) Certification of names for vacancies, including promotions and reemployment from layoff, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists;

(3) Examination for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class;

(6) Transfers;

(7) Sick leaves and vacations;

(8) Hours of work;

(9) Layoffs when necessary and subsequent reemployment;

(10) Determination of appropriate bargaining units within any institution or related boards: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(11) Certification and decertification of exclusive bargaining representatives: *Provided*, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such condition of employment constitutes cause for dismissal: *Provided further*, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: *Provided further*, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: *And provided further*, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(12) Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution or the related board may lawfully exercise discretion;

(13) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a

proper prior notice by the employee with the institution and the employee organization: *Provided*, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his official duties;

(14) Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(15) Allocation and reallocation of positions within the classification plan;

(16) Adoption and revision of salary schedules and compensation plans which reflect the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature and which shall be competitive in the state or the locality in which the institution or related boards are located, such adoption, revision, and implementation subject to approval as to availability of funds by the director of financial management in accordance with the provisions of chapter 43.88 RCW, and after consultation with the chief financial officer of each institution or related board for that institution or board, or in the case of community colleges, by the chief financial officer of the state board for community college education for the various community colleges;

(17) Training programs including in-service, promotional, and supervisory;

(18) Increment or merit increases within the series of steps for each pay grade; and

(19) Providing for veteran's preference as provided by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken higher education service, as defined by the board, the veteran's service in the military not to exceed five years of such service. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: *Provided, however*, That the widow of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: *Provided further*, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month. [1982 1st ex.s. c 53 § 16; 1979 c 151 § 15; 1977 ex.s. c 152 § 8; 1975 1st ex.s. c 122 § 1; 1973 1st ex.s. c 75 § 2; 1973 c 154 § 2; 1971 ex.s. c 19 § 1; 1969 ex.s. c 36 § 10. Formerly RCW 28.75.100. Former part of section, see RCW 28B.16.101.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

Severability—1975 1st ex.s. c 122: "If any provision of this 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 122 § 3.] This applies to RCW 28B.16.100 and 28B.16.110.

Effective date—1973 1st ex.s. c 75: See note following RCW 41.06.150.

Positions under college work-study program to be identified as to job classification: RCW 28B.12.060.

28B.16.101 Rules—Areas for local administration and management. Rules adopted by the higher education personnel board shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the board, of the following:

(1) Appointment, promotion, and transfer of employees;

(2) Dismissal, suspension, or demotion of an employee;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Probationary periods of six to twelve months and rejections therein;

(5) Sick leaves and vacations;

(6) Hours of work;

(7) Layoffs when necessary and subsequent reemployment;

(8) Allocation and reallocation of positions within the classification plans;

(9) Training programs; and

(10) Maintenance of personnel records. [1982 1st ex.s. c 53 § 19; 1977 ex.s. c 152 § 9. Prior: 1975 1st ex.s. c 122 § 1, part; 1973 1st ex.s. c 75 § 2, part; 1973 c 154 § 2, part; 1971 ex.s. c 19 § 1, part; 1969 ex.s. c 36 § 10, part. Formerly RCW 28B.16.100, part.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

28B.16.105 Rules—Standardized employee performance evaluation procedures and forms—Expiration of section. After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher learning for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives. This section shall expire June 30, 1985. This section shall not apply to management employees after June 30, 1984. [1982 1st ex.s. c 53 § 17; 1977 ex.s. c 152 § 13.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

28B.16.250 Employee performance evaluations—Procedures—Appeal. (1) After consultation with institution heads, employee organizations, and other interested parties, the personnel director shall develop employee performance evaluation standards, procedures, and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. The performance evaluation procedures shall include means whereby individual institutions and related boards may develop special performance factors peculiar to the organizational needs of particular employing institutions. Performance evaluation standards shall not include detailed work expectations, which shall be developed by the employing institution.

(2) The standardized performance evaluation shall measure classified employee performance within at least five performance rating categories as established by the board.

(3) The board shall adopt rules designed to insure that performance evaluations of employees do not result in unrealistic concentration in any performance rating category.

(4) This section shall apply to:

(a) Management employees beginning July 1, 1984; and

(b) All other employees beginning July 1, 1985.

(5) A classified employee may appeal his or her performance evaluation within thirty days to the board only to the extent the evaluation violates this chapter or rules adopted under this chapter, or if the performance rating category received in the performance evaluation would result in a withdrawal of the increment increase previously received other than the increment increase received under RCW 28B.16.260(3). [1982 1st ex.s. c 53 § 18.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.16.260 Employee performance evaluations—Nonmanagement employees—Increment and merit increases in salary. (1) Beginning July 1, 1985, the performance of each nonmanagement employee shall be evaluated prior to the date on which the nonmanagement employee would be eligible to receive an increment or merit increase in salary. In conduct of the evaluation, the institution shall use the evaluation procedure and forms adopted under RCW 28B.16.250.

(2) After June 30, 1985, increment or merit increases for these employees may be awarded only as follows:

(a) To the midstep of the salary range based on seniority if the employee receives other than the lowest performance rating category; and

(b) From the midstep of the salary range based on satisfactory performance, but if the nonmanagement employee in the performance evaluation receives a performance rating category of less than satisfactory, the increase granted as a result of the prior performance evaluation shall be withdrawn.

(3) A nonmanagement employee at the top of the salary range may only be granted an additional increase if the performance of the nonmanagement employee is rated in the highest performance rating category. Such increase shall be withdrawn if any subsequent performance evaluation is less than the highest performance rating category. [1982 1st ex.s. c 53 § 21.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Management employee performance evaluations: RCW 28B.10.644, 28B.10.645.

28B.16.270 Employee performance evaluations—Classified management employees—Increment and merit increases in salary. Beginning on July 1, 1984, classified management employees shall be subject to performance evaluation using the procedures developed under RCW 28B.16.250. Such classified management employees may only be granted increment and merit increases in salary, based on performance, under the rules promulgated by the board. [1982 1st ex.s. c 53 § 22.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.16.280 Layoff of classified employees—Criteria. (1) The board shall develop rules by January 1, 1984, which will assure that whenever an institution of higher education makes a layoff of classified management employees after June 30, 1985, or other classified employees after June 30, 1986, the decision on which employees to lay off shall be based on performance and seniority.

(2) From July 10, 1982, until the provisions of subsection (1) of this section are implemented, the decision on which employees to lay off shall be based on seniority. However, where seniority is equal, performance shall be used as the determining factor. [1982 1st ex.s. c 53 § 20.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.16.290 Reemployment from layoff. Whenever an employee has been laid off, the employee's rights, in respect to reemployment from layoff shall be based on seniority and subject to RCW 28B.16.100(2). Certification from the layoff lists may be augmented by names from other lists if necessary to complete the certification. [1982 1st ex.s. c 53 § 23.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Chapter 28B.19

STATE HIGHER EDUCATION ADMINISTRATIVE PROCEDURE ACT

Sections

28B.19.030 Notice of intended action, filing, contents—Oral hearing, when—Proceedings on rule barred until twenty days after register distribution—Questioning

procedural validity of rule, estoppel—Rule ineffective on failure to file notice.

28B.19.033 Statement of proposed rule's purpose and how implemented—Contents—Distribution by institution.

28B.19.030 Notice of intended action, filing, contents—Oral hearing, when—Proceedings on rule barred until twenty days after register distribution—Questioning procedural validity of rule, estoppel—Rule ineffective on failure to file notice. (1) Prior to the adoption, amendment, or repeal of any rule adopted under this chapter, each institution, college, division, department, or official thereof exercising rule-making authority delegated by the governing board or the president, shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and with the rules review committee, and mail the notice to all persons who have made timely request of the institution or related board for advance notice of its rule-making proceedings. Such notice shall also include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon;

(b) Provide notice to the campus or standard newspaper of the institution involved and to a newspaper of general circulation in the area at least seven days prior to the date of the rule-making proceeding. The notice shall state the time when, place where, and manner in which interested persons may present their views thereon and the general subject matter to be covered;

(c) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. An opportunity for oral hearing must be granted if requested by twenty-five persons or by the rules review committee.

(2) The institution shall make every effort to insure that the information on the proposed rule circulated pursuant to subsection (1)(a) of this section accurately reflects the rule to be presented and discussed at any oral hearing on such rule. Where substantial changes in the draft of the proposed rule are made after publication of notice in the register which would render it difficult for interested persons to properly comment on the rule without further notice, new notice of the institution's intended action as provided in subsection (1)(a) of this section shall be required.

(3) The institution shall consider fully all written and oral statements respecting the proposed rule including those addressing the question of whether the proposed rule is within the intent of the legislature as expressed by the statute which the rule implements, and may amend the proposed rule at the oral hearing or adopt the proposed rule, if there are no substantial changes, without refileing the notice required by this section.

(4) No proceeding may be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The

code reviser shall make provisions for informing an institution of higher education giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(5) No rule adopted under this chapter is valid unless adopted in substantial compliance with this section, unless it is an emergency rule designated as such and is adopted in substantial compliance with RCW 28B.19.040, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of RCW 34.08.020(1), of this section, or of RCW 28B.19.040, as now or hereafter amended, after two years have elapsed from the effective date of the rule.

(6) When twenty days notice of intended action to adopt, amend, or repeal a rule has not been filed with the code reviser, as required by subsection (4) of this section, the code reviser may not publish such rule, and such rule may not be effective for any purpose. [1982 c 221 § 7; 1981 c 324 § 12; 1977 ex.s. c 240 § 10; 1971 ex.s. c 57 § 3.]

Legislative affirmation—Severability—1981 c 324: See notes following RCW 34.04.010.

Effective date—1977 ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 ex.s. c 240: See RCW 34.08.910.

Institutions of higher education considered state agencies for certain purposes: RCW 34.08.050.

28B.19.033 Statement of proposed rule's purpose and how implemented—Contents—Distribution by institution.

(1) For the purpose of legislative review of institution rules filed pursuant to this chapter, any new or amendatory rule proposed after June 12, 1980, shall be accompanied by a statement prepared by the adopting institution which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the institution's stationery or a form bearing the institution's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

(d) The institution personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule, if any;

(f) Institution comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting institution shall have copies of the statement on file and available for public inspection and shall forward three copies of the notice and the statement to the rules review committee. [1982 c 221 § 8; 1980 c 186 § 23.]

Severability—1980 c 186: See note following RCW 34.04.045.

Chapter 28B.20

UNIVERSITY OF WASHINGTON

Sections

28B.20.402	Institute of child development research and service— Director.
28B.20.412	Children's center for research and training in mental retardation—Administration.

28B.20.402 Institute of child development research and service—Director. The management and control of such institute shall be vested in a director appointed by the board of regents of the University of Washington. [1982 c 163 § 3; 1969 ex.s. c 223 § 28B.20.402. Prior: 1937 c 181 § 2; RRS § 4566-2. Formerly RCW 28.77.190.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

28B.20.412 Children's center for research and training in mental retardation—Administration. The center shall be administered by the board of regents of the University of Washington. [1982 c 163 § 4; 1973 c 62 § 8; 1969 ex.s. c 223 § 28B.20.412. Prior: 1963 c 193 § 2. Formerly RCW 28.77.432.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Chapter 28B.50

COMMUNITY COLLEGE ACT OF 1967 (AND COMMUNITY COLLEGES GENERALLY)

Sections

28B.50.030	Definitions.
28B.50.050	State board for community college education—Created—Members—Appointment—Terms—Qualifications—Travel expenses—Removal.
28B.50.055	State board for community college education—Membership, effect of creation of new congressional districts or boundaries.
28B.50.090	College board—Powers and duties generally.
28B.50.830	Management employee performance evaluations—Procedure and forms.
28B.50.840	Management employee performance evaluations—Merit increases in salary.
28B.50.873	Reduction in force of tenured or probationary faculty members due to financial emergency—Conditions—Procedure—Rights.

28B.50.030 Definitions. As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community colleges, which shall be a system of higher education;

(2) "College board" shall mean the state board for community college education created by this chapter;

(3) "Director" shall mean the administrative director for the state system of community colleges;

(4) "District" shall mean any one of the community college districts created by this chapter;

(5) "Board of trustees" shall mean the local community college board of trustees established for each community college district within the state;

(6) "Council" shall mean the coordinating council for occupational education;

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree;

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade;

(9) "Common school board" shall mean a public school district board of directors;

(10) "Community college" shall include where applicable, vocational-technical and adult education programs conducted by community colleges and vocational-technical institutes whose major emphasis is in post-high school education;

(11) "Adult education" shall mean all education or instruction, including academic, vocational education or training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate: *Provided*, That "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate: *Provided, further*, That "adult education" shall not include education or instruction provided by any four year public institution of higher education: *And provided further*, That adult education shall not include education or instruction provided by a vocational-technical institute;

(12) "Management employees" shall mean administrative exempt personnel of each community college who are specified by each community college as management. [1982 1st ex.s. c 53 § 24; 1973 c 62 § 12; 1969 ex.s. c 261 § 18; 1969 ex.s. c 223 § 28B.50.030. Prior: 1967 ex.s. c 8 § 3. Like section formerly RCW 28.85.030.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

28B.50.050 State board for community college education—Created—Members—Appointment—Terms—Qualifications—Travel expenses—Removal. There is hereby created the "state board for

community college education", to consist of eight members, one from each congressional district, as now or hereafter existing, who shall be appointed by the governor, with the consent of the senate. The successors of the members initially appointed shall be appointed for terms of four years except that any persons appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. All members shall be citizens and bona fide residents of the state. No member of the college board shall be, during his term of office, also a member of the state board of education, a member of a K-12 board, a member of the governing board of any public or private educational institution, a member of a community college board of trustees, or an employee of any of the above boards, or have any direct pecuniary interest in education within this state.

The board shall not be deemed unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

No member of the college board shall receive any salary for his services, but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day actually spent in attending to his duties as a member of the college board.

The members of the college board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, in the manner provided by RCW 28B.10.500. [1982 1st ex.s. c 30 § 9; 1975-'76 2nd ex.s. c 34 § 74; 1973 c 62 § 13; 1969 ex.s. c 261 § 19; 1969 ex.s. c 223 § 28B.50.050. Prior: 1967 ex.s. c 8 § 5. Like section formerly RCW 28.85.050.]

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

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Appointment of director of state system of community colleges, by: RCW 28B.50.060.

Bond issue for capital projects for community colleges, 1981, board duties: RCW 28B.59D.010 through 28B.59D.070.

Delegation of board powers to director of state system of community colleges: RCW 28B.50.060.

Displaced homemaker act, board participation: RCW 28B.04.080.

Employees of, appointment and employment of: RCW 28B.50.060.

Executive officer of and secretary: RCW 28B.50.060.

Powers and duties generally: RCW 28B.50.090.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

Vocational education, board duties relating to: Chapter 28C.04 RCW.

28B.50.055 State board for community college education—Membership, effect of creation of new congressional districts or boundaries. The terms of office of members of the state board for community college education who are appointed from the various congressional districts shall not be affected by the creation of either new boundaries for congressional districts or additional

districts. In such an event, each board member may continue to serve in office for the balance of the term for which he or she was appointed: *Provided*, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 28B.50.050, as now or hereafter amended, by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was appointed as they existed at the time of his or her appointment. At the completion of such term, and thereafter, a successor shall be appointed from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed. [1982 1st ex.s. c 30 § 10.]

28B.50.090 College board—Powers and duties generally. The college board shall have general supervision and control over the state system of community colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the community college boards of trustees, prepare a single budget for the support of the state system of community colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090; the coordinating council shall assist with the preparation of the community college budget that has to do with vocational education programs;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the community college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) that each community college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining, with equal emphasis, high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education: *Provided*, That notwithstanding any other provisions of this chapter, a community college shall not be required to offer a program of vocational-technical training, when such a program as approved by the coordinating council for occupational education is already operating in the district;

(b) that each community college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of his residence or because of his educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to

meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: *Provided*, That the administrative officers of a community college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, he would not be competent to profit from the curriculum offerings of the community college, or would, by his presence or conduct, create a disruptive atmosphere within the community college not consistent with the purposes of the institution;

(4) Prepare a comprehensive master plan for the development of community college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate community college facilities in all areas of the state;

(5) Define and administer criteria and guidelines for the establishment of new community colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community colleges with respect to:

(a) qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) the content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) standard admission policies,

(e) eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various community college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community college real and personal property, except such property as is received by a community college district in accordance

with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community college system;

(13) In order that the treasurer for the state board for community college education appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community college education as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: *Provided*, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

The college board shall have the power of eminent domain. [1982 c 50 § 1; 1981 c 246 § 2; 1979 c 151 § 20; 1977 ex.s. c 282 § 4; 1973 c 62 § 16; 1969 ex.s. c 261 § 21; 1969 ex.s. c 223 § 28B.50.090. Prior: 1967 ex.s. c 8 § 9. Like section formerly RCW 28.85.090.]

Severability—1981 c 246: "If any provision of this 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." [1981 c 246 § 6.] This applies to RCW 28B.15.500, 28B.50.085, 28B.50.090 and 28B.50.140.

Severability—1977 ex.s. c 282: See note following RCW 28B.50.870.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Construction, reconstruction, equipping facilities—Financing: RCW 28B.50.340.

Coordinating council for occupational education abolished and responsibilities, personnel, property, equipment and functions transferred: RCW 28C.04.500 and 28C.04.510.

Development of budget: RCW 43.88.090.

Eminent domain: Title 8 RCW.

"Needy students," state board to establish criteria for trustees' determination of applicants as—Limitation: RCW 28B.15.525.

State budget and accounting system: Chapter 43.88 RCW.

"State plan" defined: RCW 28C.04.020.

Waiver of tuition and fees for needy and disadvantaged students: RCW 28B.15.530.

28B.50.830 Management employee performance evaluations—Procedure and forms. (1) The community colleges and the college board shall develop performance evaluation procedures and forms which shall be used for the appraisal of their respective management employees.

(2) The performance evaluation shall measure management employees' performance within at least five performance rating categories.

(3) Each community college and the college board shall adopt rules designed to insure that performance evaluations of their respective management employees do not result in unrealistic concentration in any performance rating category. [1982 1st ex.s. c 53 § 25.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.50.840 Management employee performance evaluations—Merit increases in salary. Beginning on July 1, 1984, management employees shall be subject to performance evaluation using the procedures developed under RCW 28B.50.830. Such employees may be granted merit increases in salary, based on performance, as determined by each community college and the college board for their respective employees. [1982 1st ex.s. c 53 § 26.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.50.873 Reduction in force of tenured or probationary faculty members due to financial emergency—Conditions—Procedure—Rights. The state board for community college education may declare a financial emergency under the following conditions: (1) Reduction of allotments by the governor pursuant to RCW 43.88.110(2), or (2) reduction by the legislature from one biennium to the next or within a biennium of appropriated funds based on constant dollars using the implicit price deflator. When a district board of trustees determines that a reduction in force of tenured or probationary faculty members may be necessary due to financial emergency as declared by the state board, written notice of the reduction in force and separation from employment shall be given the faculty members so affected by the president or district president as the case may be. Said notice shall clearly indicate that separation is not due to the job performance of the employee and hence is without prejudice to such employee and need only state in addition the basis for the reduction in force as one or more of the reasons enumerated in subsections (1) and (2) of this section.

Said tenured or probationary faculty members will have a right to request a formal hearing when being dismissed pursuant to subsections (1) and (2) of this section. The only issue to be determined shall be whether under the applicable policies, rules or collective bargaining agreement the particular faculty member or members advised of severance are the proper ones to be terminated. Said hearing shall be initiated by filing a written request therefor with the president or district

president, as the case may be, within ten days after issuance of such notice. At such formal hearing the tenure review committee provided for in RCW 28B.50.863 may observe the formal hearing procedure and after the conclusion of such hearing offer its recommended decision for consideration by the hearing officer. Failure to timely request such a hearing shall cause separation from service of such faculty members so notified on the effective date as stated in the notice, regardless of the duration of any individual employment contract.

Said hearing shall be a formal hearing pursuant to RCW 28B.19.120 conducted by a hearing officer appointed by the board of trustees and shall be concluded by the hearing officer within sixty days after written notice of the reduction in force has been issued. Ten days written notice of the formal hearing will be given to faculty members who have requested such a hearing by the president or district president as the case may be. The hearing officer within ten days after conclusion of such formal hearing shall prepare findings, conclusions of law and a recommended decision which shall be forwarded to the board of trustees for its final action thereon. Any such determination by the hearing officer under this section shall not be subject to further tenure review committee action as otherwise provided in this chapter.

Notwithstanding any other provision of this section, at the time of a faculty member or members request for formal hearing said faculty member or members may ask for participation in the choosing of the hearing officer in the manner provided in RCW 28A.58.455(4), said employee therein being a faculty member for the purposes hereof and said board of directors therein being the board of trustees for the purposes hereof: *Provided*, That where there is more than one faculty member affected by the board of trustees' reduction in force such faculty members requesting hearing must act collectively in making such request: *Provided further*, That costs incurred for the services and expenses of such hearing officer shall be shared equally by the community college and the faculty member or faculty members requesting hearing.

When more than one faculty member is notified of termination because of a reduction in force as provided in this section, hearings for all such faculty members requesting formal hearing shall be consolidated and only one such hearing for the affected faculty members shall be held, and such consolidated hearing shall be concluded within the time frame set forth herein.

Separation from service without prejudice after formal hearing under the provisions of this section shall become effective upon final action by the board of trustees.

It is the intent of the legislature by enactment of this section and in accordance with RCW 28B.52.035, to modify any collective bargaining agreements in effect, or any conflicting board policies or rules, so that any reductions in force which take place after December 21, 1981, whether in progress or to be initiated, will comply solely with the provisions of this section: *Provided*, That any applicable policies, rules, or provisions contained in a collective bargaining agreement related to lay-off

units, seniority and re-employment rights shall not be affected by the provisions of this paragraph.

Nothing in this section shall be construed to affect the right of the board of trustees or its designated appointing authority not to renew a probationary faculty appointment pursuant to RCW 28B.50.857. [1981 2nd ex.s. c 13 § 1.]

Severability—1981 2nd ex.s. c 13: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 13 § 3.] This applies to RCW 28B.50.873.

Chapter 28B.80

COUNCIL FOR POSTSECONDARY EDUCATION IN THE STATE OF WASHINGTON

(Formerly: Council on higher education in the state of Washington)

Sections

- 28B.80.250 "Management employees" defined.
- 28B.80.260 Management employee performance evaluations—
Procedures and forms.
- 28B.80.270 Management employee performance evaluations—
Merit increases in salary.

Council to adopt rules relating to students' residency status, recovery of fees: RCW 28B.15.015.

28B.80.250 "Management employees" defined. Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

"Management employees" mean administrative exempt personnel of the council for postsecondary education who are specified by the council as management. [1982 1st ex.s. c 53 § 27.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.80.260 Management employee performance evaluations—Procedures and forms. (1) The council shall develop performance evaluation procedures and forms which shall be used for the appraisal of management employees.

(2) The performance evaluation shall measure management employees' performance within at least five performance rating categories.

(3) The council shall adopt rules designed to insure that performance evaluations of management employees do not result in unrealistic concentration in any performance rating category. [1982 1st ex.s. c 53 § 28.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

28B.80.270 Management employee performance evaluations—Merit increases in salary. Beginning on July 1, 1984, management employees of the council shall be subject to performance evaluation using the procedures developed under RCW 28B.80.260. Such employees may be granted merit increases in salary based on performance as determined by the council for its employees. [1982 1st ex.s. c 53 § 29.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Title 28C VOCATIONAL EDUCATION

Chapters

28C.51 1979 Bond act for capital improvements to state fire service training center.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Temporary committee on educational policies, structure and management: See notes following Title 28A RCW digest.

Chapter 28C.51

1979 BOND ACT FOR CAPITAL IMPROVEMENTS TO STATE FIRE SERVICE TRAINING CENTER

Sections

28C.51.010 Bonds authorized—Amount—Conditions.

28C.51.010 Bonds authorized—Amount—Conditions. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, furnishing and equipping of a state fire service training center for the commission for vocational education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1982 1st ex.s. c 48 § 1; 1979 ex.s. c 225 § 1.]

Severability—1982 1st ex.s. c 48: "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." [1982 1st ex.s. c 48 § 23.]

Effective date—1979 ex.s. c 225: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1979 ex.s. c 225 § 10.] Because of this emergency section, this act, 1979 ex.s. c 225, became effective June 15, 1979.

Severability—1979 ex.s. c 225: "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." [1979 ex.s. c 225 § 9.]

The above two annotations apply to RCW 28C.51.010, 28C.51.020, 28C.51.030, 28C.51.040, 28C.51.050 and 28C.51.060.

Title 29 ELECTIONS

Chapters

- 29.30 Ballots.
- 29.33 Voting machines.
- 29.34 Voting devices and vote tallying systems.
- 29.69 Congressional districts and apportionment.
- 29.70 Voting boundary commission act of 1982.

29.79 Initiative and referendum.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Chapter 29.30 BALLOTS

Sections

- 29.30.071 Repealed.
- 29.30.080 Repealed.
- 29.30.081 Paper ballots—General election—Arrangement of instructions, measures, offices—Order of candidates.
- 29.30.091 Paper ballots—General election—Form of ballot.
- 29.30.100 Repealed.
- 29.30.470 Repealed.
- 29.30.480 Voting machines—General election—Arrangement of instructions, measures, offices—Order of candidate.

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

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

29.30.081 Paper ballots—General election—Arrangement of instructions, measures, offices—Order of candidates. (1) On the top of each general election paper ballot there shall be printed instructions directing the voters how to mark the ballot, including write-in votes. Next after the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters of such election.

(2) The candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first below the office heading, the candidate or candidates of the other major political parties shall follow according to the votes cast for their nominees for president at the last presidential election, and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state. The candidates for nonpartisan offices shall be listed in the manner otherwise provided by law. There shall be blank spaces for writing in the name of any candidate, if desired, on the ballot.

(3) There shall be a at the right of the name of each nominee so that a voter may clearly indicate the candidate or the candidates for whom he wishes to cast his ballot.

(4) Under the designation of the office there shall be indicated the number of candidates to such office to be voted for at such election.

(5) If the election is in a year in which a president of the United States is to be elected, the names of candidates for president and vice president for each political party shall be grouped together, each group enclosed in brackets with a single square to the right in which the voter indicates his choice.

(6) All paper ballots for general elections shall be sequentially numbered, but done in such a way to permit removal of such numbers by precinct election workers without leaving any identifying marks on the ballot. There shall be no printing on the back of the paper ballots nor any mark thereon to distinguish them. [1982 c 121 § 1; 1977 ex.s. c 361 § 60.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

29.30.091 Paper ballots—General election—Form of ballot. The arrangement of paper ballots used in general elections shall in general conform as nearly as possible to the following form:

GENERAL ELECTION BALLOT
----- County
(Date of election)

Instructions: If you desire to vote for any candidate, place X in [] at the right of the name of such candidate. If you desire to vote for or against any measure, place an X in the appropriate [] following such measure. To vote for a person not on the ballot, write the name of the candidate and the political party affiliation in the space provided.

(Here place any state measures to be voted on.)

PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Vote for one
(name of candidate) }
and } .. (party).. []
(name of candidate) }
(name of candidate) } .. (party).. []
and }
(name of candidate) }
(name of candidate) }
and } .. (party).. []
(name of candidate) }

UNITED STATES SENATOR

Vote for one
(name of candidate) (party) []
(name of candidate) (party) []
(name of candidate) (party) []

(Other partisan offices follow on the ballot in the same form.)

NONPARTISAN OFFICES

SUPERINTENDENT OF PUBLIC INSTRUCTION

Vote for one
(name of candidate) []
(name of candidate) []

JUSTICE OF STATE SUPREME COURT POSITION -----

Vote for one
(name of candidate) []
(name of candidate) []

(Other nonpartisan offices follow on the ballot in the same form.)

[1982 c 121 § 2; 1977 ex.s. c 361 § 61.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

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

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

29.30.480 Voting machines—General election—Arrangement of instructions, measures, offices—Order of candidate.

(1) Prominently displayed in the polling place used at a general election there shall be printed instructions directing the voters how to operate the voting machine and correctly indicate votes on issues and candidates, including write-in votes. Next after the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state or county measures authorized by law to be submitted to the voters of such election. Measures submitted by any jurisdiction other than the state or county may be placed on the same ballot labels as the state and county measures or on separate ballot labels either immediately following the state or county measures or in the position in which offices in that jurisdiction would normally be located.

(2) The candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first below the office heading, the candidate or candidates of the other major political parties shall follow according to the votes cast for their nominees for president at the last presidential election, and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state. The candidates for nonpartisan offices shall be listed in the manner otherwise provided by law.

(3) There shall be a lever above the name of each nominee so that a voter may clearly indicate the candidate or the candidates for whom he wishes to cast his vote.

(4) Under the designation of the office there shall be indicated the number of candidates to such office to be voted for at such election.

(5) If the election is in a year in which a president of the United States is to be elected, the names of candidates for president and vice president for each political party shall be grouped together, each group enclosed in brackets with a single lever above with which the voter indicates his choice. [1982 c 121 § 3; 1977 ex.s. c 361 § 49.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

**Chapter 29.33
VOTING MACHINES**

Sections

- 29.33.041 Secretary of state to examine and report on voting machines, devices, and tally systems.
- 29.33.051 Submitting voting machines, devices, or tally systems for examination.
- 29.33.061 Employment of experts for examination of voting machines, devices, or tally systems.
- 29.33.081 Approval of voting machines, devices, and tally systems required for use in election—Changes and improvements.
- 29.33.090 Requirements of voting machines for approval.

29.33.041 Secretary of state to examine and report on voting machines, devices, and tally systems. The secretary of state shall publicly examine and report on all voting machines, voting devices, and vote tally systems that are submitted to the secretary. The secretary of state shall determine whether the voting machines, voting devices, and vote tally systems conform with statutory requirements, applicable rules, and safety requirements. The secretary of state shall submit a copy of the report, within thirty days after completing the examination, to the board of county commissioners and the county auditor of each county and to all other persons requesting a copy. [1982 c 40 § 1.]

Severability—1982 c 40: "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." [1982 c 40 § 11.]

29.33.051 Submitting voting machines, devices, or tally systems for examination. Any owner of a voting machine, voting device, or vote tally system or any interested person may submit the voting machine, voting device, or vote tally system to the secretary of state for examination. [1982 c 40 § 2.]

Severability—1982 c 40: See note following RCW 29.33.041.

29.33.061 Employment of experts for examination of voting machines, devices, or tally systems. The secretary of state may employ not more than three experts in one or more of the fields of mechanical or electrical engineering, or data processing machinery to assist the secretary in examining the voting machines, voting devices, or vote tally systems. The experts shall receive reasonable compensation in an amount to be established by the

secretary which compensation shall be paid by the person who submits the voting machine, voting device, or vote tally system for examination. [1982 c 40 § 3.]

Severability—1982 c 40: See note following RCW 29.33.041.

29.33.081 Approval of voting machines, devices, and tally systems required for use in election—Changes and improvements. Only voting machines, voting devices, and vote tally systems which have the approval of the secretary of state or had been approved under this chapter or chapter 29.34 RCW before March 22, 1982, may be used for conducting any election. Any change or improvement of the voting machines, voting devices, or vote tally systems that does not impair their accuracy, efficiency, or capacity may be made without the necessity of a reexamination or reapproval by the secretary of state. [1982 c 40 § 4.]

Severability—1982 c 40: See note following RCW 29.33.041.

29.33.090 Requirements of voting machines for approval. No voting machine shall be approved by the secretary of state unless it is constructed so as to fulfill the following requirements:

- (1) It shall secure to the voter secrecy in the act of voting;
- (2) It shall provide facilities for voting for the candidates of as many political parties or organizations as may make nominations, and for or against as many measures as may be submitted;
- (3) Except at primary elections the voting devices for the candidates shall be arranged in separate parallel party lines, one or more lines for each party and in parallel office rows transverse thereto;
- (4) It shall permit the voter to vote for any person for any office that he shall have the right to vote for but none other;
- (5) It shall permit the voter to vote for all the candidates of one party or in part for the candidates of one party and in part for the candidates of one or more other parties;
- (6) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for but no more;
- (7) It shall prevent the voter from voting for the same person more than once for the same office;
- (8) It shall permit the voter to vote for or against any measure he may have the right to vote on but none other;
- (9) It shall correctly register or record all votes cast for any and all persons and for or against any and all measures;
- (10) It shall be provided with a lock or locks by which all operation of the registering mechanism can be prevented as soon as the polls of the election are closed;
- (11) It shall be provided with a protective counter whereby any operating or tampering with the machine before or after the election will be detected;
- (12) It shall be provided with a counter which will show at all times during an election how many persons have voted;

(13) It shall be provided with a mechanical model, illustrating the manner of voting on the machine suitable for the instruction of voters;

(14) It shall be provided with one device for each party for voting for the presidential and vice presidential candidates of said party in the years in which said officers are elected. [1982 c 40 § 5; 1965 c 9 § 29.33.090. Prior: 1935 c 20 § 4; 1913 c 58 § 4; RRS § 5303.]

Severability—1982 c 40: See note following RCW 29.33.041.

Chapter 29.34

VOTING DEVICES AND VOTE TALLYING SYSTEMS

Sections

29.34.080	Requirements of voting devices for approval.
29.34.090	Requirements of vote tallying systems for approval.

29.34.080 Requirements of voting devices for approval. No voting device shall be approved by the secretary of state unless it is constructed so that it:

- (1) Secures to the voter secrecy in the act of voting;
- (2) Provides facilities for voting for the candidate of as many political parties or organizations as may make nominations, and for or against as many measures as may be submitted;
- (3) Permits the voter to vote for any person for any office and upon any measure that he has the right to vote for;
- (4) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;
- (5) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- (6) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice president of the United States;
- (7) Lists all candidates for any office in every primary and election, special or general. [1982 c 40 § 6; 1977 ex.s. c 361 § 66; 1971 ex.s. c 6 § 1; 1967 ex.s. c 109 § 18.]

Severability—1982 c 40: See note following RCW 29.33.041.

Effective date—**Severability**—1977 ex.s. c 361: See notes following RCW 29.01.006.

Severability—1971 ex.s. c 6: "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 6 § 3.]

29.34.090 Requirements of vote tallying systems for approval. No vote tallying system shall be approved by the secretary of state unless it is constructed so that it is:

- (1) Capable of correctly counting votes on ballots or ballot cards on which the proper number of votes have been marked for any office or question or issue that has been voted;
- (2) Capable of ignoring the votes marked for any office or question or issue where more than the allowable number of votes have been marked, but shall correctly

count the properly voted portions of the ballot or ballot card;

(3) Capable of accumulating a count of the specific number of ballots or ballot cards tallied for a precinct, accumulating total votes by candidate for each office, and accumulating total votes for and against each question and issue of the ballots or ballot cards tallied for a precinct;

(4) Capable of accommodating rotation of candidates' names on the ballot or ballot card, provided that all ballots or ballot cards from one precinct shall be of the same rotation sequence;

(5) Capable of automatically producing precinct totals in either printed, marked, or punched form, or combinations thereof. [1982 c 40 § 7; 1967 ex.s. c 109 § 19.]

Severability—1982 c 40: See note following RCW 29.33.041.

Chapter 29.69

CONGRESSIONAL DISTRICTS AND APPORTIONMENT

Sections

29.69.001	Legislative intent.
29.69.002	Population basis.
29.69.003	Adjustments of areas—Census—Military personnel.
29.69.004	Change in legislative district boundaries.
29.69.005	District description terminology.
29.69.006	Abbreviations.
29.69.007	Single member elected from each district—When—Term.
29.69.010	First congressional district.
29.69.020	Second congressional district.
29.69.030	Third congressional district.
29.69.040	Fourth congressional district.
29.69.050	Fifth congressional district.
29.69.060	Sixth congressional district.
29.69.070	Seventh congressional district.
29.69.080	Eighth congressional district.
29.69.900	Remedies for invalid portions of chapter.
29.69.910	Severability—1982 c 2.

Reapportionment and redistricting of legislative and congressional districts: Chapter 29.70 RCW.

29.69.001 Legislative intent. It is the intent of the legislature to reapportion and redistrict the congressional districts of the state of Washington in accordance with the Constitution and laws of the United States and the state of Washington. It is the intent to encompass within each congressional district, as nearly as practicable, an equal number of state inhabitants as enumerated in the 1980 federal decennial census. [1982 c 2 § 1.]

29.69.002 Population basis. In every case the population of the congressional districts created has been ascertained on the basis of the total number of persons found inhabiting such areas as of April 1, 1980, under the 1980 federal decennial census. The legislature hereby declares that no practical means have been found to more accurately determine the population inhabiting such areas other than through the 1980 federal decennial census data. [1982 c 2 § 2.]

29.69.003 Adjustments of areas—Census—

Military personnel. (1) Any area not specifically included within the boundaries of any of the districts as described in this chapter and which is completely surrounded by a particular district, shall be a part of that district. Any such area not completely surrounded by a particular district shall be a part of the district having the smallest number of inhabitants and having territory contiguous to such area.

(2) Any area described in this chapter as specifically embraced in two or more noninclusive districts shall be a part of the adjacent district having the smallest number of inhabitants and shall not be a part of the other district or districts.

(3) Any area specifically mentioned as embraced within a district but separated from such district by one or more other districts, shall be assigned as though it had not been included in any district specifically described.

(4) Where a congressional district boundary intersects an individual dwelling, the residents of that household shall be assigned to the adjacent district having the smallest number of inhabitants.

(5) The 1980 United States federal decennial census shall be used for determining the number of inhabitants under this chapter.

(6) If any court of competent jurisdiction requires transient military personnel that were not included in the United States census bureau data to be included, these persons shall be included in the population of the district or districts from which the persons were excluded. [1982 c 2 § 3.]

29.69.004 Change in legislative district boundaries.

Some congressional district boundaries are defined in terms of the legislative districts established under chapter 44.07B RCW as it exists on February 17, 1982. Any amendment of a legislative district enacted after February 17, 1982, shall not alter congressional district boundaries unless the alteration of the congressional district boundaries is specifically included in the amendment. [1982 c 2 § 4.]

29.69.005 District description terminology. For the purposes of this chapter, congressional districts shall be described in terms of:

(1) Legislative districts established under chapter 44.07B RCW as it exists on February 17, 1982, except as provided in RCW 29.69.004;

(2) Official United States census bureau tracts, enumeration districts, block numbering areas, block groups, blocks, or census county divisions established by the United States bureau of the census in the 1980 federal decennial census;

(3) Counties, municipalities, or other political subdivisions or parts of political subdivisions as they existed on April 1, 1980;

(4) Any natural or artificial boundaries or monuments including but not limited to rivers, streams, or lakes as they existed on April 1, 1980;

(5) Legal descriptions used to describe real property including "section", "range", and "township";

(6) Roads, streets, or highways as they existed on April 1, 1980; or

(7) Standard surveying terminology including latitude, longitude, compass directions, and metes and bounds. [1982 c 2 § 5.]

29.69.006 Abbreviations. The following abbreviations used in this chapter have the following meanings:

(1) "T" means "census tract";

(2) "ED" means "census enumeration district";

(3) "BG" means "census block group";

(4) "B" means "block"; and

(5) "BNA" means "block numbering area"; and

(6) "Division" or "div." means "census county division". [1982 c 2 § 6.]

29.69.007 Single member elected from each district—When—Term.

A single member of the United States House of Representatives shall be elected from each of the eight congressional districts provided for in this chapter at the general election to be held on the first Tuesday after the first Monday in November, 1982, and every two years thereafter, for two-year terms. [1982 c 2 § 7.]

29.69.010 First congressional district. The First congressional district shall consist of the following areas:

All of the First legislative district not in the Seventh congressional district

All of the Twenty-first legislative district

All of the Forty-fourth legislative district

All of the Forty-fifth legislative district not in the Eighth congressional district

These additional areas in King County:

T 1

T 2 (part: BG 1, 2, 4, 5, 6, B 301-303)

T 7

T 8

T 9

T 10

T 11

T 14

T 15

T 16

T 17 (part: BG 4, 5, B 601-604)

T 21

T 22

T 23

T 24

T 25

T 31 (part: B 106, 107, 206, 207, 311, 312, BG 4-8)

T 32

T 32.99

T 39

T 40

T 41

T 42 (part: BG 1, 2, 8, B 301–312, 321, 322, 402–412, 501–510, 707–714)
 T 55
 T 56
 T 57
 T 57.99
 T 58.01 (part: BG 6–8, B 109–126)
 T 58.02 (part: BG 3–5, 9, B 224–227)
 T 211 (part: B 208, 209, 301–310)
 T 212
 T 213
 T 227 (part: BG 3, 4)
 T 241
 T 242
 T 323.04 (part: The part in the Forty–seventh legislative district)

In Kitsap County:

T 907
 T 908
 T 909
 T 910

These additional areas in Snohomish County:

The city of Everett
 T 402 (part: The part outside the city of Everett)
 T 413 (part: The part outside the city of Everett)
 T 416.01 (part: The part outside the city of Everett)
 T 416.02
 T 417 (part: The part north of the extension of 148th St. S.E. and outside the city of Everett)
 T 418.01 (part: The part outside the city of Everett)
 T 418.02 (part: B 305–308, 310–313, 315, and the part of BG 9 outside the city of Everett)
 T 419 (part: The part in the Thirty–eighth legislative district outside the city of Everett)
 T 520 (part: All except the part west of 35th Ave. S.E. and south of 148th St. S.E. and extension thereof)
 T 521.02 (part: B 114–129)

[1982 c 2 § 8.]

29.69.020 Second congressional district. The Second congressional district shall consist of the following areas:

All of Clallam County
 All of Jefferson County
 All of Mason County not in the Sixth congressional district
 All of Island County
 All of San Juan County
 All of Whatcom County
 All of Skagit County

[1982 RCW Supp—page 200]

All of Grays Harbor County not in the Third congressional district

All of Snohomish County not in the First congressional district

All of Kitsap County not in the First and Sixth congressional districts

[1982 c 2 § 9.]

29.69.030 Third congressional district. The Third congressional district shall consist of the following areas:

All of Clark County
 All of Cowlitz County
 All of Lewis County
 All of Pacific County
 All of Thurston County
 All of Wahkiakum County
 All of Grays Harbor County in legislative district 19–

B

In Pierce County:

T 701 (part: ED 254)
 T 714.01 (part: B 919–926)
 T 730
 T 731.02
 T 732

[1982 c 2 § 10.]

29.69.040 Fourth congressional district. The Fourth congressional district shall consist of the following areas:

All of Benton County
 All of Chelan County
 All of Douglas County
 All of Franklin County
 All of Grant County
 All of Kittitas County
 All of Klickitat County
 All of Okanogan County
 All of Skamania County
 All of Yakima County

[1982 c 2 § 11.]

29.69.050 Fifth congressional district. The Fifth congressional district shall consist of the following areas:

All of Adams County
 All of Asotin County
 All of Columbia County
 All of Ferry County
 All of Garfield County
 All of Lincoln County
 All of Pend Oreille County
 All of Spokane County
 All of Stevens County
 All of Walla Walla County
 All of Whitman County

[1982 c 2 § 12.]

29.69.060 Sixth congressional district. The Sixth congressional district shall consist of the following areas:

All of the Twenty-fifth legislative district except:

- T 702 (part: ED 257, 260)
- T 703.01
- T 703.02
- T 706 (part: The part outside the city of Sumner)

All of the Twenty-sixth legislative district
 All of the Twenty-seventh legislative district
 All of the Twenty-eighth legislative district
 All of the Twenty-ninth legislative district

These additional areas in Kitsap County:

- T 801
- T 802
- T 803
- T 804
- T 805
- T 806
- T 807
- T 808
- T 809
- T 810
- T 811
- T 812
- T 813
- T 814
- T 814.99
- T 918 (part: BG 2)
- T 920

In Mason County:

- Belfair Division
- Skokomish Reservation Division
- South Shore Division
- Tahuya Division
- ED 408
- ED 410
- ED 411
- ED 421

These additional areas in Pierce County:

- T 713.01 (part: B 208–211)
- T 713.02 (part: B 301, 302, 305)
- T 714.01 (part: B 524, 908–911, 913–916, 917, 918, 927–929)
- T 714.02
- T 715.02 (part: BG 3)
- T 728
- T 729
- T 731.01 (part: B 108, 109, 116, 148)

[1982 c 2 § 13.]

29.69.070 Seventh congressional district. The Seventh congressional district shall consist of the following areas:

All of the Thirty-second legislative district
 All of the Thirty-fourth legislative district
 All of the Thirty-sixth legislative district not in the First congressional district

All of the Thirty-seventh legislative district
 All of the Forty-third legislative district
 All of the Forty-sixth legislative district not in the First congressional district
 All of the Eleventh legislative district not in the Eighth congressional district.

These additional areas in King County:

- T 3
- T 6 (part: The part in the First legislative district)
- T 12 (part: The part in the First legislative district)
- T 210
- T 211 (part: The part in the First legislative district)
- T 273
- T 274 (part: BG 1, 2, 6, B 301–306, 308)
- T 280
- T 281
- T 282
- T 283 (part: BG 1, 2)
- T 284.01
- T 284.02
- T 284.03
- T 285

[1982 c 2 § 14.]

29.69.080 Eighth congressional district. The Eighth congressional district shall consist of the following areas:

All of the Thirtieth legislative district
 All of the Thirty-first legislative district
 All of the Thirty-third legislative district not in the Seventh congressional district
 All of the Forty-first legislative district
 All of the Forty-seventh legislative district not in the First congressional district
 All additional areas in Pierce County not included in the Third and Sixth congressional districts
 All of the Forty-eighth legislative district not in the First congressional district

These additional areas in King County:

- T 252 (part: All except B 209)
- T 254 (part: BG 1, 2, B 507–513, 515)
- T 255
- T 256 (part: The part outside the city of Renton)
- T 292.01
- T 292.02
- T 293.01 (part: BG 9)
- T 293.02 (part: B 302–312, 910, 911)
- T 323.04 (part: B 113, 925–927, the parts of B 112, 115–117, 938, and 960 outside the city of Redmond, and the part of B 966 west of the extension of 220th Ave. N.E.)
- T 327 (part: ED 80 U, 83A, 84, 85)

[1982 c 2 § 15.]

29.69.900 Remedies for invalid portions of chapter. The legislature recognizes and intends to carry out the legislature's constitutional duty to provide for redistricting and reapportionment by taking the necessary legislative action to remedy any portion of this chapter which is found to be invalid. When necessary, the speaker of the house of representatives, the president of the senate, and the secretary of state shall each designate one person and the three persons so designated shall jointly recommend any necessary remedies to the legislature before the next special or regular legislative session. [1982 c 2 § 16.]

Reviser's note: Term "this act" changed to "this chapter" in RCW 29.69.900; 1982 c 2 § 17, a legislative directive, noted "Sections 1 through 16 of this act shall constitute a new chapter in Title 29 RCW"; note also like section for legislative districts, RCW 44.07B.902.

29.69.910 Severability—1982 c 2. See RCW 29.70.910.

Chapter 29.70

VOTING BOUNDARY COMMISSION ACT OF 1982

Sections

29.70.010	Legislative declaration—Decennial commission system established.
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29.70.030	State legislative and congressional redistricting plans, commission duty—Apportionment standards for.
29.70.040	Commission—Members, selection of—Nonvoting chairman—Filling vacancies.
29.70.050	Commission—Selecting authorities for members of.
29.70.060	Commission—Member's oath—Disqualification—Public disclosure required.
29.70.070	Commission—Members not to hold or campaign for office.
29.70.080	State legislative and congressional redistricting plans—When submitted to legislature—Procedure when legislature rejects or governor vetoes—Application of administrative procedure act—Redistricting by court order, when.
29.70.090	Commission—Rules, application of administrative procedure act—Termination procedure, transfer of records and files—Minutes—Report on state or local government plan—Agency to receive census data—Gifts, grants to.
29.70.100	Redistricting by local governments and municipal corporations—Census information for—Plan, when prepared, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous.
29.70.110	State legislative and congressional redistricting plans—Amendments by legislature—Types, vote needed—Public notice, comment.
29.70.120	Commission—Designee, secretary of state as, duties, report of—Staff—Council, duties—Compensation and reimbursement for commission members.
29.70.130	Supreme court jurisdiction and review of challenged plans—Scope—Orders.
29.70.900	Short title.
29.70.910	Severability—1982 c 2.

29.70.010 Legislative declaration—Decennial commission system established. The legislature recognizes that it is of paramount importance to the people of

this state that their government be responsible and accountable. To this end, regular reapportionment and redistricting of state legislative and congressional districts is required to ensure fair and effective representation for the citizens of this state. The legislature further recognizes that local government districts should be regularly and fairly reapportioned and redistricted. Therefore, a decennial commission system is hereby established to provide for the development of plans, to be adopted into law without amendment, for reapportionment and redistricting, according to specific criteria and standards. [1982 c 2 § 18.]

29.70.020 Commission—Established, when—General duties—Name. After each decennial census made by authority of the United States after February 17, 1982, and thereafter in each year ending in one, a commission shall be established to provide for the development of plans, to be adopted into law without amendment, for the redistricting and reapportionment of state legislative and congressional districts as are required by law, and for the review of local redistricting plans. The commission shall be known as the voting boundary commission. [1982 c 2 § 19.]

29.70.030 State legislative and congressional redistricting plans, commission duty—Apportionment standards for. State and congressional redistricting plans shall be drawn by the voting boundary commission according to the following apportionment standards:

(1) State legislative districts in each house of the legislature shall have population as nearly equal as is practicable, excluding transient military personnel, according to the population reported in the most recent federal decennial census. In no case may a single district have a population which varies by more than five percent from the average population of all districts.

(2) Congressional districts shall have a population as nearly equal as is practicable, excluding transient military personnel, according to the population reported in the most recent federal decennial census. In no case may a single district have a population which varies by more than two percent from the average population of all districts.

(3) All districts shall be composed of convenient and contiguous territory.

(4) All districts shall be drawn, as nearly as practicable, so as to be separated by existing natural or artificial barriers.

(5) All districts shall be drawn to coincide with the boundaries of local political subdivisions, if practicable and not inconsistent with other criteria.

(6) No district may be drawn for the purpose of diluting the voting strength of any language or racial minority group.

(7) No district may be drawn to purposely favor or disfavor any political party.

(8) Districts shall be drawn so as to minimize division of natural neighborhoods and communities of interest, whenever practicable. [1982 c 2 § 20.]

29.70.040 Commission—Members, selection of—Nonvoting chairman—Filling vacancies. Members of the voting boundary commission shall be selected as follows:

(1) By January 1st of each year ending in one, the secretary of state shall give public notice of the establishment of that decade's voting boundary commission to give reasonable and adequate opportunity for interested parties to offer nominations to the selecting authorities.

(2) By February 15, the selecting authorities shall announce their appointment, and certify those appointments to the secretary of state, of the persons selected to serve as voting boundary commission commissioners. If after February 15 an appointment has not been made, the vacancy shall be filled by appointment by the chief judges of the court of appeals divisions from a list of names submitted by the party leadership of the original selecting authority for that position. The leadership shall submit a list of at least three names to the court of appeals judges by March 1 and selection shall be made therefrom within five calendar days. If the selecting authority fails to submit a list of names to the court of appeals chief judges, it is the responsibility of the chief judges to appoint a commissioner of their own choosing by March 10 and certify the appointment to the secretary of state.

(3) The secretary of state shall be the nonvoting chairman of the voting boundary commission.

(4) A vacancy on the commission shall be filled by the original selecting authority, or its successor, within fifteen days of the vacancy. [1982 c 2 § 21.]

29.70.050 Commission—Selecting authorities for members of. The selecting authorities shall be as follows:

(1) For commissioner 1, the legislative leadership of the largest party in the Washington state house of representatives.

(2) For commissioner 2, the legislative leadership of the second largest party in the Washington state house of representatives.

(3) For commissioner 3, the legislative leadership of the largest party in the Washington state senate.

(4) For commissioner 4, the legislative leadership of the second largest party in the Washington state senate.

(5) For commissioner 5, the state central committee of the political party to which the governor belongs.

(6) For commissioner 6, the state central committee of the major political party with which the governor is not affiliated. [1982 c 2 § 22.]

29.70.060 Commission—Member's oath—Disqualification—Public disclosure required. (1) Each person appointed to the commission shall take an oath in substantially the following form: "I, _____, do solemnly swear (or affirm), that I will faithfully and conscientiously discharge my duties as commissioner, I will uphold and defend the Constitution of the United States and the state of Washington, and I will serve the public interest of the people of this state in establishing fair and equitable redistricting and reapportionment plans according to the standards and guidelines of the

United States and Washington state Constitutions and the provisions of the voting boundary commission act."

(2) No person may be appointed to the commission who:

(a) Is not a registered voter of the state at the time of selection;

(b) Holds or has held legislative or congressional office within six months prior to selection;

(c) Is a relative of or is employed by a member of the state house of representatives or the state senate; or

(d) Is or has within three months prior to selection been a registered lobbyist.

(3) Each commissioner shall comply with the disclosure requirements of the public disclosure act, chapter 42.17 RCW, within thirty days of appointment as commissioner, and thereafter as may be required pursuant to the public disclosure act. [1982 c 2 § 23.]

29.70.070 Commission—Members not to hold or campaign for office. No member of the commission may hold or campaign for a legislative or congressional seat while a member of the commission. [1982 c 2 § 24.]

29.70.080 State legislative and congressional redistricting plans—When submitted to legislature—Procedure when legislature rejects or governor vetoes—Application of administrative procedure act—Redistricting by court order, when. (1) The commission shall prepare, by November 31st of each year ending in one, at least one plan dividing the state into legislative and congressional districts. If a plan receives the approval of four commissioners, it shall be designated a four-commissioner plan and shall be submitted to the legislature for statutory enactment without amendment.

(2) If no plan achieves the approval of four commissioners, then any three commissioners may propose a plan to the legislature by December 15th of each year ending in one. All such three-commissioner plans shall be submitted to the legislature for approval without amendment. A roll call vote is required on each such plan submitted. The legislature shall vote on each plan within fifteen legislative days of its submission.

(3) A plan that does not receive a majority vote in each house of the legislature or that has been vetoed by the governor shall be returned to the commission. Within twenty days of the date on which the legislature no longer has any plan before it for consideration, the commission shall submit a single four-commissioner plan to the legislature. If no four commissioners agree, such three-commissioner plans as are available shall be submitted to the legislature. The legislature shall vote on each plan within fifteen legislative days of the plan's submission.

(4) The commission shall adopt state legislative and congressional plans in accordance with the rule-making procedures of chapter 34.04 RCW, the administrative procedure act: *Provided*, That the judicial review provisions of the administrative procedure act do not apply.

(5) The state legislative and congressional plans shall be drawn according to the apportionment standards of RCW 29.70.030.

(6) If a plan is not approved by the legislature by June 1 of each year ending in two, the secretary of state may petition the applicable federal court to declare the existing redistricting and reapportionment laws invalid and provide for redistricting and reapportionment by court order. [1982 c 2 § 25.]

29.70.090 Commission—Rules, application of administrative procedure act—Termination procedure, transfer of records and files—Minutes—Report on state or local government plan—Agency to receive census data—Gifts, grants to. (1) The commission shall adopt rules of practice and procedure pursuant to chapter 34.04 RCW, the administrative procedure act.

(2) Three members of the commission constitute a quorum to do business.

(3) The commission shall, in the preparation and adoption of plans, provide for adequate notice to the public of its actions. The commission shall, prior to adoption of a plan, hold public hearings.

(4) The commission shall preserve all information filed with and developed by the commission. Upon the ultimate conclusion of the business of any decade's commission, its records and files shall be transferred to the custody of the state archives.

(5) The commission is subject to the open public meetings act, chapter 42.30 RCW.

(6) The commission shall prepare and maintain minutes of its proceedings pursuant to RCW 42.32.030.

(7) The commission shall prepare and publish a report on the final state plan, explaining how population and other criteria were used in drawing the plan, and providing a detailed map or maps showing the location of district boundaries. The official copy of the report shall be filed with the secretary of state.

(8) In each certification or remand of a local government plan, the commission shall prepare a report explaining the basis for its action, including the criteria applied.

(9) The commission shall be the agency of state government designated to receive the results of each federal decennial census. In the case of census data generated or forwarded by the federal government during a period in which a decennial commission is not in operation, the office of the secretary of state shall be the agency designated to receive the data.

(10)(a) The decennial commission shall prepare state and congressional plans and review local government plans as expeditiously as possible. The commission shall take all necessary steps to conclude its business and cease operations, including a final report detailing financial expenditures and the disposition of all commission property, papers, and business, by October 31 of each year ending in two. The commission shall thereupon be terminated, until appointment of the next decade's commission: *Provided*, That the commission may temporarily reconvene from time to time if necessary to hear and decide appeals from a challenged local plan, or if reconvened by the supreme court to comply with a court order for preparation of a new plan or revision of the existing plan.

(b) When the decade's decennial commission has ceased operations, any remaining commission business, if any, shall be transferred for conclusion to the office of the secretary of state. Any legal challenges or litigation pending at the time of the commission's termination shall continue to be prosecuted by the commission's legal staff until appropriate resolution. The office of the secretary of state shall be substituted as the successor agency in the case of any litigation continuing after the commission's termination.

(11) In conjunction with the office of the secretary of state, the commission may undertake projects designed to inform the citizenry of its work and the importance of redistricting in the structure of government of the state.

(12) The commission may accept funds, grants, gifts, and bequests from any lawful source, to be used for lawful commission business pursuant to this chapter.

(13) The commission may perform other tasks as prescribed by law, and undertake any activity consistent therewith that the commission deems necessary for the fair and expeditious completion of its mandate. [1982 c 2 § 26.]

29.70.100 Redistricting by local governments and municipal corporations—Census information for—Plan, when prepared, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous. (1) It is the responsibility of each local government and each municipal corporation with a governing body comprised of internal director districts not based on statutorily required land ownership or residency criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after its receipt of federal decennial census information applicable to the specific local area, the commission or the secretary of state shall forward the census information to each local government and municipal corporation charged with redistricting under this chapter.

(3) No later than eight months after its receipt of federal decennial census data, the governing body of the municipal corporation shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director district shall be as nearly equal in population to each and every other internal director district comprising the municipal corporation.

(b) Each district shall be as compact as possible.

(c) Each district shall be comprised of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation shall ensure that full and reasonable public notice of its actions is provided. The municipal corporation shall hold at least one public hearing on the redistricting plan at least one week before adoption of the plan.

(6)(a) An elected official residing in an area affected by the municipal corporation's redistricting plan may request review of the adopted local plan by the voting boundary commission, within forty-five days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation may be joined as respondent. The voting boundary commission shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in RCW 29.70.030 and subsection (4) of this section.

(b) If, within thirty days of submission of a local government plan, the commission finds the plan to be consistent with the requirements of this chapter or the commission fails to find that the plan is not consistent with the requirements of this chapter, the secretary of state shall certify the plan. A certified plan shall take effect ten days after certification.

(c) If the commission determines the plan does not meet the requirements of this chapter, in whole or in part, it shall remand the plan for further or corrective action within a specified reasonable time period.

(d) If the commission finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation. [1982 c 2 § 27.]

29.70.110 State legislative and congressional redistricting plans—Amendments by legislature—Types, vote needed—Public notice, comment. (1) Notwithstanding any other provision of this chapter, the legislature may make minor technical amendments to the final state or congressional redistricting plan, upon a vote of a majority of legislators. Minor technical amendments are those changes in legal description, area identification, or other wording which are needed to conform the plan's language to that originally intended, as expressed during commission public hearings, maps, reports, or other public announcements. Minor technical amendments may not alter the fundamental shape or population of any district.

(2) Notwithstanding any other provision of this chapter, the legislature may amend the state or congressional plan, in any manner, by a vote of two-thirds of the membership of each house. Any such amendment must be consistent with the standards of RCW 29.70.030. No such amendment may take effect less than eight months before a regularly scheduled legislative or congressional general election in the district or districts subject to the amendment.

(3) The legislature shall ensure public notice and an adequate opportunity for public comment prior to its

adoption of any amendment of any state or congressional voting boundary plan. [1982 c 2 § 28.]

29.70.120 Commission—Designee, secretary of state as, duties, report of—Staff—Council, duties—Compensation and reimbursement for commission members. (1) The designee of the commission shall be the secretary of state or his delegate. It shall be the duty of the secretary of state to prepare minutes and official notices of the commission, to act as liaison between the commission and other governmental units as required by the commission, and to otherwise assist the commission. The secretary of state shall furnish the commission with such staff and facilities as may be necessary to fulfill its duties. The secretary of state shall submit to the governor and the legislature, by April 15 of each year, a report summarizing the nature and extent of the assistance rendered to the commission.

(2) In addition to staff support rendered by the secretary of state, the commission may retain and employ an independent general counsel to act as the chief legal officer of the commission. The commission counsel shall represent the commission in any court proceedings.

(3) Each commissioner shall be compensated for his or her services and reimbursed for expenses in the manner and amount provided for members of the state house of representatives. [1982 c 2 § 29.]

Reimbursement, allowances of legislative members: Chapter 44.04 RCW.

29.70.130 Supreme court jurisdiction and review of challenged plans—Scope—Orders. (1) The supreme court has original jurisdiction of any challenge to the validity of a final plan for state and congressional districts, or to a challenge to a certified local plan. The supreme court shall review and decide a challenge to any plan within ninety days after filing of an appeal.

(2) The supreme court shall review the challenged plan for consistency with constitutional requirements and the standards and criteria set forth in this chapter. The court may, if it finds a state or congressional plan invalid in whole or in part, order the commission to convene and to prepare a new plan within a specified time. In the event of the invalidity of a certified local plan, the court shall not reconvene the commission but shall require the local government to take the necessary corrective action directly. [1982 c 2 § 30.]

29.70.900 Short title. This chapter may be known and cited as the voting boundary commission act of 1982. [1982 c 2 § 31.]

29.70.910 Severability—1982 c 2. If any provision of this 1982 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. [1982 c 2 § 33.]

Reviser's note: The above severability clause applies not only to all sections of this chapter, the basis of which are 1982 c 2, but all sections in chapter 29.69 RCW, the basis of which are from such act.

Chapter 29.79

INITIATIVE AND REFERENDUM

Sections

29.79.010	Filing proposed measures with secretary of state.
29.79.015	Review of initiative measures by code reviser's office—Certificate of review prerequisite to assignment of serial number.
29.79.030	Numbering—Transmittal to attorney general.
29.79.040	Ballot title and summary—Formulation by attorney general.
29.79.050	Ballot title—Notice to proponents and other persons.
29.79.060	Ballot title and summary—Appeal to superior court.
29.79.070	Ballot title and summary—Mailed to proponents and other persons—Appearance on petitions.
29.79.080	Petitions—Paper—Size—Contents.
29.79.090	Petitions to legislature—Form.
29.79.100	Petitions to people—Form.
29.79.110	Petitions to refer—Form.
29.79.120	Petitions—Signatures—Number necessary.
29.79.130	Repealed.
29.79.150	Petitions—Acceptance or rejection by secretary of state.
29.79.190	Petitions—Consolidation into volumes.
29.79.200	Petitions—Verification and canvass of signatures, observers—Statistical sampling authorized—Initiatives to legislature, certification of.
29.79.220	Repealed.
29.79.310	Form of ballot.

29.79.010 Filing proposed measures with secretary of state. If any legal voter of the state, either individually or on behalf of an organization, desires to petition the legislature to enact a proposed measure, or submit a proposed initiative measure to the people, or order that a referendum of all or part of any act, bill, or law, passed by the legislature be submitted to the people, he or she shall file with the secretary of state a typewritten copy of the measure proposed, or the act or part of such act on which a referendum is desired, accompanied by an affidavit that the proposer is a legal voter and a filing fee prescribed under RCW 43.07.120, as now or hereafter amended. [1982 c 116 § 1; 1965 c 9 § 29.79.010. Prior: 1913 c 138 § 1, part; RRS § 5397, part.]

29.79.015 Review of initiative measures by code reviser's office—Certificate of review prerequisite to assignment of serial number. Upon receipt of any petition proposing an initiative to the people or an initiative to the legislature, and prior to giving a serial number thereto, the secretary of state shall submit a copy thereof to the office of the code reviser and give notice to the petitioner of such transmittal. Upon receipt of the measure, the assistant code reviser to whom it has been assigned may confer with the petitioner and shall within seven working days from receipt thereof review the proposal for matters of form and style, and such matters of substantive import as may be agreeable to the petitioner, and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the reviser's office shall be advisory only, and the petitioner may accept or reject them in whole or in part. The code reviser shall issue a certificate of review certifying that he has reviewed the measure for form and style and that the

recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall issue whether or not the petitioner accepts such recommendations. Within fifteen working days after notification of submittal of the petition to the reviser's office, the petitioner, if he desires to proceed with his sponsorship, shall file the measure together with the certificate of review with the secretary of state for assignment of serial number and the secretary of state shall thereupon submit to the reviser's office a certified copy of the measure filed. Upon submitting the proposal to the secretary of state for assignment of a serial number the secretary of state shall refuse to make such assignment unless the proposal is accompanied by a certificate of review. [1982 c 116 § 2; 1973 c 122 § 2.]

Legislative finding—1973 c 122: "The legislature finds that the initiative process reserving to the people the power to propose bills, laws and to enact or reject the same at the polls, independent of the legislature, is finding increased popularity with citizens of our state. The exercise of this power concomitant with the power of the legislature requires coordination to avoid the duplication and confusion of laws. This legislation is enacted especially to facilitate the operation of the initiative process." [1973 c 122 § 1.]

29.79.030 Numbering—Transmittal to attorney general. The secretary of state shall give a serial number to each initiative or referendum measure, using a separate series for initiatives to the legislature, initiatives to the people, and referendum measures, and forthwith transmit one copy of the measure proposed bearing its serial number to the attorney general. Thereafter a measure shall be known and designated on all petitions, ballots, and proceedings as "Initiative Measure No. ----" or "Referendum Measure No. ----". [1982 c 116 § 3; 1965 c 9 § 29.79.030. Prior: 1913 c 138 § 1, part; RRS § 5397, part.]

29.79.040 Ballot title and summary—Formulation by attorney general. Within seven calendar days after the receipt of an initiative or referendum measure the attorney general shall formulate and transmit to the secretary of state a concise statement posed as a question and not to exceed twenty words, bearing the serial number of the measure and a summary of the measure, not to exceed seventy-five words, to follow the statement. The statement may be distinct from the legislative title of the measure, and shall give a true and impartial statement of the purpose of the measure. Neither the statement nor the summary may intentionally be an argument, nor likely to create prejudice, either for or against the measure. Such concise statement shall constitute the ballot title. The ballot title formulated by the attorney general shall be the ballot title of the measure unless changed on appeal. When practicable, the question posed by the ballot title shall be written in such a way that an affirmative answer to such question and an affirmative vote on the measure would result in a change in then current law, and a negative answer to the question and a negative vote on the measure would result in no change to then current law. [1982 c 116 § 4; 1973 1st ex.s. c 118 § 2; 1965 c 9 § 29.79.040. Prior: 1953 c 242 § 2; 1913 c 138 § 2; RRS § 5398.]

Ballot titles to constitutional amendments and other measures: RCW 29.27.060 through 29.27.067.

29.79.050 Ballot title—Notice to proponents and other persons. Upon the filing of the ballot title and summary for an initiative or referendum measure in his office, the secretary of state shall forthwith notify by telephone and by mail the person proposing the measure and any other individuals who have made written request for such notification of the exact language of the ballot title. [1982 c 116 § 5; 1973 1st ex.s. c 118 § 3; 1965 c 9 § 29.79.050. Prior: 1913 c 138 § 3, part; RRS § 5399, part.]

29.79.060 Ballot title and summary—Appeal to superior court. If any person is dissatisfied with the ballot title or summary formulated by the attorney general, he or she may, within five days from the filing of the ballot title in the office of the secretary of state appeal to the superior court of Thurston county by petition setting forth the measure, the title or summary formulated by the attorney general, and his or her objections to the ballot title or summary and requesting amendment of the title or summary by the court.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the secretary of state, upon the attorney general, and upon the person proposing the measure if the appeal is initiated by someone other than that person. Upon the filing of the petition on appeal or at the time to which the hearing may be adjourned by consent of the appellant, the court shall accord first priority to examining the proposed measure, the title or summary prepared by the attorney general, and the objections to that title or summary, may hear arguments, and shall, within five days, render its decision and file with the secretary of state a certified copy of such ballot title or summary as it determines will meet the requirements of RCW 29.27.060 and 29.79.040. The decision of the superior court shall be final. Such appeal shall be heard without costs to either party. [1982 c 116 § 6; 1965 c 9 § 29.79.060. Prior: 1913 c 138 § 3, part; RRS § 5399, part.]

29.79.070 Ballot title and summary—Mailed to proponents and other persons—Appearance on petitions. When the ballot title and summary are finally established, the secretary of state shall file the instrument establishing it with the proposed measure and transmit a copy thereof by mail to the person proposing the measure and to any other individuals who have made written request for such notification. Thereafter such ballot title shall be the title of the measure in all petitions, ballots, and other proceedings in relation thereto. The summary shall appear on all petitions directly following the ballot title. [1982 c 116 § 7; 1965 c 9 § 29.79.070. Prior: 1913 c 138 § 4, part; RRS § 5400, part.]

29.79.080 Petitions—Paper—Size—Contents. The person proposing the measure shall print blank petitions upon single sheets of paper of good writing quality (including but not limited to newsprint) not

less than eleven inches in width and not less than fourteen inches in length. Each petition at the time of circulating, signing, and filing with the secretary of state shall consist of not more than one sheet with numbered lines for not more than twenty signatures, with the prescribed warning and title, shall be in the form required by RCW 29.79.090, 29.79.100, or 29.79.110, as now or hereafter amended, and shall have a full, true, and correct copy of the proposed measure referred to therein printed on the reverse side of the petition. [1982 c 116 § 8; 1973 1st ex.s. c 118 § 4; 1965 c 9 § 29.79.080. Prior: (i) 1913 c 138 § 4, part; RRS § 5400, part. (ii) 1913 c 138 § 9; RRS § 5405.]

29.79.090 Petitions to legislature—Form. Petitions for proposing measures for submission to the legislature at its next regular session, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

INITIATIVE PETITION FOR SUBMISSION TO THE LEGISLATURE

To the Honorable -----, Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that this petition and the proposed measure known as Initiative Measure No. ----- and entitled (here set forth the established ballot title of the measure), a full, true, and correct copy of which is printed on the reverse side of this petition, be transmitted to the legislature of the State of Washington at its next ensuing regular session, and we respectfully petition the legislature to enact said proposed measure into law; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

Petitioner's signature	Print name for positive identification	Residence address, street and number, if any	City or Town	County
(Here follow 20 numbered lines divided into columns as below.)				
1	-----	-----	-----	-----
2	-----	-----	-----	-----
3	-----	-----	-----	-----
etc.				

[1982 c 116 § 9; 1965 c 9 § 29.79.090. Prior: 1913 c 138 § 5, part; RRS § 5401, part.]

29.79.100 Petitions to people—Form. Petitions for proposing measures for submission to the people for

their approval or rejection at the next ensuing general election, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

INITIATIVE PETITION FOR SUBMISSION TO THE PEOPLE

To the Honorable _____, Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that the proposed measure known as Initiative Measure No. _____, entitled (here insert the established ballot title of the measure), a full, true and correct copy of which is printed on the reverse side of this petition, be submitted to the legal voters of the State of Washington for their approval or rejection at the general election to be held on the _____ day of November, 19__; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

Table with 5 columns: Petitioner's signature, Print name for positive identification, Residence address, street and number, if any, City or Town, County. Includes a header row and 20 numbered lines for entries.

[1982 c 116 § 10; 1965 c 9 § 29.79.100. Prior: 1913 c 138 § 6, part; RRS § 5402, part.]

29.79.110 Petitions to refer—Form. Petitions ordering that acts or parts of acts passed by the legislature be referred to the people at the next ensuing general election, or special election ordered by the legislature, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

PETITION FOR REFERENDUM

To the Honorable _____, Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that

[1982 RCW Supp—page 208]

Referendum Measure No. _____, entitled (here insert the established ballot title of the measure) being a (or part or parts of a) bill passed by the _____ legislature of the State of Washington at the last regular (special) session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular (special) election to be held on the _____ day of November, 19__; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

Table with 5 columns: Petitioner's signature, Print name for positive identification, Residence address, street and number, if any, City or Town, County. Includes a header row and 20 numbered lines for entries.

[1982 c 116 § 11; 1965 c 9 § 29.79.110. Prior: 1913 c 138 § 7, part; RRS § 5403, part.]

29.79.120 Petitions—Signatures—Number necessary. When the person proposing any initiative measure has secured upon such initiative petition a number of signatures of legal voters equal to or exceeding eight percent of the votes cast for the office of governor at the last regular gubernatorial election prior to the submission of the signatures for verification, or when the person or organization demanding any referendum of an act of the legislature or any part thereof has secured upon any such referendum petition a number of signatures of legal voters equal to or exceeding four percent of the votes cast for the office of governor at the last regular gubernatorial election prior to the submission of the signatures for verification, he or they may submit the petition to the secretary of state for filing. [1982 c 116 § 12; 1965 c 9 § 29.79.120. Prior: 1913 c 138 § 11, part; RRS § 5407, part. See also State Constitution Art. 2 § 1A (Amendment 30), (L. 1955, p. 1860, S.J.R. No. 4).]

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

29.79.150 Petitions—Acceptance or rejection by secretary of state. The secretary of state may refuse to file any initiative or referendum petition being submitted upon any of the following grounds:

- (1) That the petition is not in the form required by RCW 29.79.090, 29.79.100, or 29.79.110 as now or hereafter amended.
(2) That the petition clearly bears insufficient signatures.
(3) That the time within which the petition may be filed has expired.

In case of such refusal, the secretary of state shall endorse on the petition the word "submitted" and the date, and retain the petition pending appeal.

If none of the grounds for refusal exists, the secretary of state must accept and file the petition. [1982 c 116 § 13; 1965 c 9 § 29.79.150. Prior: (i) 1913 c 138 § 11, part; RRS § 5407, part. (ii) 1913 c 138 § 12, part; RRS § 5408, part.]

29.79.190 Petitions—Consolidation into volumes. If the secretary of state accepts and files an initiative or referendum petition upon its being submitted for filing or if he or she is required to file it by the court, he or she shall, in the presence of the person submitting such petition for filing if he or she desires to be present, arrange and assemble the sheets containing the signatures into such volumes as will be most convenient for verification and canvassing and shall consecutively number the volumes and stamp the date of filing on each volume. [1982 c 116 § 14; 1965 c 9 § 29.79.190. Prior: 1913 c 138 § 14; RRS § 5410.]

29.79.200 Petitions—Verification and canvass of signatures, observers—Statistical sampling authorized—Initiatives to legislature, certification of. Upon the filing of an initiative or referendum petition, the secretary of state shall proceed to verify and canvass the names of the legal voters on the petition. The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed measure so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the superior court of Thurston county. The secretary of state may limit the number of observers to not less than two on each side, if in his or her opinion, a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides. The secretary of state may use any statistical sampling techniques for this verification and canvass which have been adopted by rule as provided by chapter 34.04 RCW. No petition will be rejected on the basis of any statistical method employed, and no petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains less than one hundred ten percent of the requisite number of signatures of legal voters. If the secretary of state finds the same name signed to more than one petition, he or she shall reject all but the first such valid signature. For an initiative to the legislature, the secretary of state shall transmit a certified copy of the proposed measure to the legislature at the opening of its session and, as soon as the signatures on the petition have been verified and canvassed, the secretary of state shall send to the legislature a certificate of the facts relating to the filing, verification, and canvass of the petition. [1982 c 116 § 15; 1977 ex.s. c 361 § 105; 1969 ex.s. c 107 § 1; 1965 c 9 § 29.79.200. Prior: 1933 c 144 § 1; 1913 c 138 § 15; RRS § 5411.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

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

29.79.310 Form of ballot. Except in the case of alternative voting on a measure initiated by petition, for which a substitute has been passed by the legislature, each measure submitted to the people for approval or rejection shall be so printed on the ballot, under the proper heading, that a voter can, by making one choice, express his or her approval or rejection of such measure. Substantially the following form shall be a compliance with this section:

INITIATIVE MEASURE -----

(Here insert the ballot title of the measure.)

YES
NO

[1982 c 116 § 16; 1965 c 9 § 29.79.310. Prior: 1913 c 138 § 24; RRS § 5420.]

Title 30

BANKS AND TRUST COMPANIES

Chapters

- 30.04 General provisions.**
- 30.12 Officers, employees, and stockholders.**
- 30.42 Alien banks.**
- 30.49 Merger, consolidation, and conversion.**

Master license system exemption: RCW 19.02.800.

**Chapter 30.04
GENERAL PROVISIONS**

Sections	
30.04.060	Examinations directed.
30.04.230	Authority of corporation or association to acquire stock of bank, trust company, or national banking association.
30.04.375	Investment in stock, participation certificates, and other evidences of participation.
30.04.550	Reorganization as subsidiary of bank holding company—Authority.
30.04.555	Reorganization as subsidiary of bank holding company—Procedure.
30.04.560	Reorganization as subsidiary of bank holding company—Dissenter's rights—Conditions.
30.04.565	Reorganization as subsidiary of bank holding company—Valuation of shares of dissenting shareholders.
30.04.570	Reorganization as subsidiary of bank holding company—Approval of supervisor of banking—Certificate of reorganization—Exchange of shares.

30.04.060 Examinations directed. The supervisor, the deputy supervisor, or a bank examiner, without previous notice, shall visit each bank and each trust company at least once in each year, and oftener if necessary, for the purpose of making a full investigation into the condition

of such corporation, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director, officer, employee, or agent of such corporation. Said supervisor may make such other full or partial examinations as deemed necessary and may examine any bank holding company that owns any portion of a bank or trust company chartered by the state of Washington and obtain reports of condition for any bank holding company that owns any portion of a bank or trust company chartered by the state of Washington. The supervisor may, in his or her discretion, accept in lieu of the examinations required in this section the examinations required under the terms of the federal reserve act for banks which are, or may become, members of a federal reserve bank or the deposits of which are insured by the Federal Deposit Insurance Corporation. Any wilful false swearing in any examination shall be perjury. [1982 c 196 § 6; 1955 c 33 § 30.04.060. Prior: 1937 c 48 § 1; 1919 c 209 § 5; 1917 c 80 § 7; RRS § 3214.]

Severability—1982 c 196: See note following RCW 30.04.550.
Supervisor of banking and bank examiners: Chapter 43.19 RCW.

30.04.230 Authority of corporation or association to acquire stock of bank, trust company, or national banking association. A corporation or association organized under the laws of this state or licensed to transact business in the state, other than a bank or trust company, may acquire any or all shares of stock of any bank, trust company, or national banking association.

Nothing in this section shall be construed to prohibit the merger, consolidation, or reorganization of a bank or trust company in accordance with this title, or to permit a bank holding company the operations of which are principally conducted outside this state to acquire more than five percent of the shares of stock or the assets of a bank, trust company, or national banking association the principal operations of which are conducted within this state. [1982 c 196 § 7; 1981 c 89 § 2; 1973 1st ex.s. c 92 § 1; 1961 c 69 § 1; 1955 c 33 § 30.04.230. Prior: 1933 c 42 § 10; RRS § 3243-1.]

Severability—1982 c 196: See note following RCW 30.04.550.
Severability—1981 c 89: See note following RCW 30.04.180.

30.04.375 Investment in stock, participation certificates, and other evidences of participation. Any bank or trust company may invest in the stock or participation certificates of production credit associations, federal intermediate credit banks and the stock or other evidences of participation of federal land banks in amounts consistent with safe and sound practice in conducting the business of the trust company or bank. [1982 c 86 § 1.]

30.04.550 Reorganization as subsidiary of bank holding company—Authority. A state banking corporation may, with the approval of the supervisor of banking and the affirmative vote of the shareholders of such corporation owning at least two-thirds of its capital stock outstanding, reorganize to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank

holding company, as defined in the federal bank holding company act of 1956, as amended. [1982 c 196 § 1.]

Severability—1982 c 196: "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." [1982 c 196 § 11.]

30.04.555 Reorganization as subsidiary of bank holding company—Procedure. A reorganization authorized under RCW 30.04.550 shall be carried out in the following manner:

(1) A plan of reorganization specifying the manner in which the reorganization shall be carried out must be approved by a majority of the entire board of directors of the banking corporation. The plan shall specify the name of the acquiring corporation, the amount of cash, securities of the bank holding company, other consideration, or any combination thereof to be paid to the shareholders of the reorganizing corporation in exchange for their shares of the stock of the corporation. The plan shall also specify the exchange date or the manner in which such exchange date shall be determined, the manner in which the exchange shall be carried out, and such other matters, not inconsistent with this chapter, as shall be determined by the board of directors of the corporation.

(2) The plan of reorganization shall be submitted to the shareholders of the reorganizing corporation at a meeting to be held on the call of the directors. Notice of the meeting of stockholders at which the plan shall be considered shall be given by publication in a newspaper of general circulation in the place where the principal office of each banking corporation is located at least once each week for four successive weeks, and by certified mail at least twenty days before the date of the meeting, to each stockholder of record of the banking corporation. The notice shall state that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against approval of the plan. [1982 c 196 § 2.]

Severability—1982 c 196: See note following RCW 30.04.550.

30.04.560 Reorganization as subsidiary of bank holding company—Dissenter's rights—Conditions. If the shareholders approve the reorganization by a two-thirds vote of the capital stock outstanding, and if it is thereafter approved by the supervisor and consummated, any shareholder of the banking corporation who has voted shares against such reorganization at such meeting or has given notice in writing at or prior to such meeting to the banking corporation that he or she dissents from the plan of reorganization and has not voted in favor of the reorganization, shall be entitled to receive the value of the shares determined as provided in RCW 30.04.565. Such dissenter's rights must be exercised by making written demand which shall be delivered to the corporation at any time within thirty days after the date of shareholder approval, accompanied by the surrender of the appropriate stock certificates. [1982 c 196 § 3.]

Severability—1982 c 196: See note following RCW 30.04.550.

30.04.565 Reorganization as subsidiary of bank holding company—Valuation of shares of dissenting shareholders. The value of the shares of a dissenting shareholder who has properly perfected dissenter's rights shall be ascertained as of the day prior to the date of the shareholder action approving such reorganization by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the acquiring bank holding company, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the effective date of the reorganization, the supervisor of banking shall cause an appraisal to be made which shall be final and binding upon all parties. [1982 c 196 § 4.]

Severability—1982 c 196: See note following RCW 30.04.550.

30.04.570 Reorganization as subsidiary of bank holding company—Approval of supervisor of banking—Certificate of reorganization—Exchange of shares. The reorganization and exchange authorized by RCW 30.04.550 through 30.04.570 shall become effective as follows:

(1) If the board of directors and shareholders of the state banking corporation and the board of directors of the acquiring corporation approve the plan of reorganization, then both corporations shall apply for the approval of the supervisor of banking, providing such information as the supervisor by regulation may prescribe.

(2) If the supervisor approves the reorganization, the supervisor shall issue a certificate of reorganization to the state banking corporation.

(3) Upon the issuance of a certificate of reorganization by the supervisor, or on such later date as shall be provided for in the plan of reorganization, the shares of the state banking corporation shall be deemed to be exchanged in accordance with the plan of reorganization, subject to the rights of dissenters under RCW 30.04.560 and 30.04.565. [1982 c 196 § 5.]

Severability—1982 c 196: See note following RCW 30.04.550.

Chapter 30.12

OFFICERS, EMPLOYEES, AND STOCKHOLDERS

Sections

30.12.010 Directors—Election—Meetings—Stock or equivalent interest—Oath—Vacancies.

30.12.010 Directors—Election—Meetings—Stock or equivalent interest—Oath—Vacancies. Every bank and trust company shall be managed by not less than five directors, excepting that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the

annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's or trust company's bylaws but not later than May 15th of each year. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each month and whenever required by the supervisor. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy. Every director must own in his own right shares of the capital stock of the bank or trust company of which he is a director the aggregate par value of which shall not be less than four hundred dollars, unless the capital of the bank or trust company shall not exceed fifty thousand dollars, in which case he must own in his own right shares of such capital stock the aggregate par value of which shall not be less than two hundred dollars, or an equivalent interest, as determined by the supervisor of banking, in any company which has control over such bank or trust company within the meaning of section 2 of the federal bank holding company act of 1956, as now or hereafter amended. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

Immediately upon election, each director shall take, subscribe, swear to, and file with the supervisor an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation and will not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation and that he is the beneficial owner in good faith of the number of shares of stock required by this section, and that the same is fully paid, is not hypothecated or in any way pledged as security for any loan or debt. Vacancies in the board of directors shall be filled by the board. [1982 c 196 § 8; 1981 c 89 § 3; 1975 c 35 § 1; 1969 c 136 § 8; 1957 c 190 § 1; 1955 c 33 § 30.12-.010. Prior: 1947 c 129 § 1; 1917 c 80 § 30; Rem. Supp. 1947 § 3237.]

Severability—1982 c 196: See note following RCW 30.04.550.

Severability—1981 c 89: See note following RCW 30.04.180.

Chapter 30.42

ALIEN BANKS

Sections

30.42.070 Allocated paid-in capital—Requirements.
30.42.105 Power to make loans and to guarantee obligations.
30.42.110 Repealed.
30.42.115 Solicitation and acceptance of deposits.
30.42.120 Requirements for accepting deposits or transacting business.
30.42.140 Investigations—Examinations.
30.42.155 Powers and activities.

30.42.070 Allocated paid-in capital—Requirements. The capital allocated as required in RCW 30.42.060(3) shall be maintained within this state at all times in cash or in supervisor approved interest bearing bonds, notes, debentures, or other obligations: (1) Of the United States or of any agency or instrumentality thereof, or guaranteed by the United States; or (2) of this state, or of a city, county, town, or other municipal corporation, or instrumentality of this state or guaranteed by this state, or such other assets as the supervisor may approve. Such capital shall be deposited with a bank qualified to do business in and having its principal place of business within this state, or in a national bank qualified to engage in banking in this state. Such bank shall issue a written receipt addressed and delivered to the supervisor reciting that such deposit is being held for the sole benefit of the United States domiciled creditors of such alien bank's Washington office and that the same is subject to his order without offset for the payment of such creditors. For the purposes of this section, the term "creditor" shall not include any other offices, branches, subsidiaries, or affiliates of such alien bank. Subject to the approval of the supervisor, reasonable arrangements may be made for substitution of securities. So long as it shall continue business in this state in conformance with this chapter and shall remain solvent, such alien bank shall be permitted to collect all interest and/or income from the assets constituting such allocated capital.

Should any securities so depreciate in market value and/or quality as to reduce the deposit below the amount required, additional money or securities shall be deposited promptly in amounts sufficient to meet such requirements. The supervisor may make an investigation of the market value and of the quality of any security deposited at the time such security is presented for deposit or at any time thereafter. The supervisor may make such charge as may be reasonable and proper for such investigation. [1982 c 95 § 1; 1979 c 106 § 6; 1973 1st ex.s. c 53 § 7.]

Effective date—1982 c 95: "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, 1982." [1982 c 95 § 9.]

30.42.105 Power to make loans and to guarantee obligations. An approved branch of an alien bank shall have the same power to make loans and guarantee obligations as a state bank chartered pursuant to Title 30 RCW: *Provided, however,* That the base for computing the applicable loan limitation shall be the entire capital and surplus of the alien bank. The supervisor may adopt rules and regulations limiting the amount of loans to full-time employees of the branch. [1982 c 95 § 4.]

Effective date—1982 c 95: See note following RCW 30.42.070.

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

30.42.115 Solicitation and acceptance of deposits. (1) Any branch of an alien bank that received approval

of its branch application pursuant to RCW 30.42.090 on or before July 27, 1978, and any approved branch of an alien bank that has designated Washington as its home state pursuant to section 5 of the International Banking Act of 1978, shall have the same power to solicit and accept deposits as a state bank chartered pursuant to Title 30 RCW, except that acceptance of initial deposits of less than one hundred thousand dollars shall be limited to deposits of the following:

(a) Any business entity, including any corporation, partnership, association, or trust, that engages in commercial activity for profit: *Provided,* That there shall be excluded from this category any such business entity that is organized under the laws of any state or the United States, is majority-owned by United States citizens or residents, and has total assets, including assets of majority owned subsidiaries, of less than one million five hundred thousand dollars as of the date of the initial deposit;

(b) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(c) Any international organization which is composed of two or more nations;

(d) Any draft, check, or similar instrument for the transmission of funds issued by the branch;

(e) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit;

(f) Any depositor who established a deposit account on or before July 1, 1982, and who has continuously maintained the deposit account since that date: *Provided,* That this subparagraph (f) of this subsection shall be effective only until July 1, 1985;

(g) Any other person: *Provided,* That the amount of deposits under this subparagraph (g) of this subsection may not exceed four percent of the average of the branch's deposits for the last thirty days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies, or wholly owned subsidiaries of the alien bank.

(2) As used in subsection (1) of this section, "initial deposit" means the first deposit transaction between a depositor and the branch. Different deposit accounts that are held by a depositor in the same right and capacity may be added together for purposes of determining the dollar amount of that depositor's initial deposit.

(3) Approved branches of alien banks, other than those described in subsection (1) of this section, may solicit and accept deposits only from foreign governments and their agencies and instrumentalities, persons, or entities conducting business principally at their offices or establishments abroad, and such other deposits that:

(a) Are to be transmitted abroad;

(b) Consist of collateral or funds to be used for payment of obligations to the branch;

(c) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to

be periodically transferred to the depositor's account at another financial institution;

(d) Consist of the proceeds of extensions of credit by the branch; or

(e) Represent compensation to the branch for extensions of credit or services to the customer.

(4) A branch may accept deposits, subject to the limitations set forth in subsections (1) and (3) of this section, only upon the same terms and conditions (including nature and extent of such deposits, withdrawal, and the payment of interest thereon) that banks organized under the laws of this state which are members of the Federal Reserve System may accept such deposits. Any branch that is not subject to reserve requirements under regulations of the Federal Reserve Board shall maintain deposit reserves in this state, pursuant to rules adopted by the supervisor, to the same extent they must be maintained by banks organized under the laws of this state which are members of the Federal Reserve System. [1982 c 95 § 6.]

Effective date—1982 c 95: See note following RCW 30.42.070.

30.42.120 Requirements for accepting deposits or transacting business. A branch shall not commence to transact in this state the business of accepting deposits or transact such business thereafter unless it has met the following requirements:

(1) It has obtained federal deposit insurance corporation insurance covering its eligible deposit liabilities within this state, or in lieu thereof, made arrangements satisfactory to the supervisor for maintenance within this state of additional capital equal to not less than five percent of its deposit liabilities, computed on the basis of the average daily net deposit balances covering semi-monthly periods as prescribed by the supervisor pursuant to *RCW 30.04.090. Such additional capital shall be deposited in the manner provided in RCW 30.42.070.

(2) It holds in this state currency, bonds, notes, debentures, drafts, bills of exchange, or other evidences of indebtedness or other obligations payable in the United States or in United States funds or, with the approval of the supervisor, in funds freely convertible into United States funds or such other assets as are approved by the supervisor, in an amount not less than one hundred percent of the aggregate amount of liabilities of such alien bank payable at or through its office in this state. When calculating the value of the assets so held, credit shall be given for the amounts deposited pursuant to RCW 30.42.060(3) and 30.42.120(1), but there shall be excluded all amounts due from the head office and any other branch, agency, or other office or wholly-owned subsidiary of the bank, except those amounts due from such offices or subsidiaries located within the United States and payable in United States dollars.

(3) If deposits are not insured by the federal deposit insurance corporation, then that fact shall be disclosed to all depositors pursuant to rules and regulations of the supervisor.

(4) If the branch conducts an international banking facility, the deposits of which are exempt from reserve requirements of the federal reserve banking system, the

liabilities of that facility shall be excluded from the deposit and other liabilities of the branch for the purposes of subsection (1) of this section. [1982 c 95 § 2; 1975 1st ex.s. c 285 § 2; 1973 1st ex.s. c 53 § 12.]

***Reviser's note:** RCW 30.04.090 was repealed by 1981 c 89 § 7.

Effective date—1982 c 95: See note following RCW 30.42.070.

30.42.140 Investigations—Examinations. The supervisor, deputy supervisor, or a bank examiner, without previous notice, shall visit the office of an alien bank doing business in this state pursuant to this chapter at least once in each year, and more often if necessary, for the purpose of making a full investigation into the condition of such office, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director or member of its governing body, officer, employee, or agent of such alien bank or office. The supervisor shall make such other full or partial examination as he deems necessary. The supervisor shall collect, from each alien bank for each examination of the conditions of its office in this state, the estimated actual cost of such examination. [1982 c 95 § 3; 1973 1st ex.s. c 53 § 14.]

Effective date—1982 c 95: See note following RCW 30.42.070.

30.42.155 Powers and activities. (1) In addition to the taking of deposits and making of loans as provided in this chapter, a branch of an alien bank shall have the power only to carry out these other activities:

(a) Borrow funds from banks and other financial institutions;

(b) Make investments to the same extent as a state bank chartered pursuant to Title 30 RCW;

(c) Buy and sell foreign exchange;

(d) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;

(e) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;

(f) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or of any state or the District of Columbia, to do business in the United States;

(g) In order to prevent loss on debts previously contracted a branch may acquire shares in a corporation: *Provided*, That the shares are disposed of as soon as practical but in no event later than two years from the date of acquisition;

(h) Issue letters of credit and create acceptances;

(i) Act as paying agent or trustee in connection with revenue bonds issued pursuant to chapter 39.84 RCW, in which the user is: (i) A corporation organized under the laws of a country other than the United States, or a subsidiary or affiliate owned or controlled by such a corporation; or (ii) a corporation, partnership, or other business organization, the majority of the beneficial ownership of which is owned by persons who are citizens of a country other than the United States and who are

not residents of the United States, and any subsidiary or affiliate owned or controlled by such an organization; or in which the bank purchases twenty-five percent or more of the bond issue. For the purposes of chapter 39.84 RCW, such an alien bank shall be deemed to possess trust powers.

(2) In addition to the powers and activities expressly authorized by this section, a branch shall have the power to carry on such additional activities which are necessarily incidental to the activities expressly authorized by this section. [1982 c 95 § 5.]

Effective date—1982 c 95: See note following RCW 30.42.070.

Chapter 30.49

MERGER, CONSOLIDATION, AND CONVERSION

Sections

30.49.040 Merger to resulting state bank—Exception— Agreement, contents, approval, amendment.

Reorganization as subsidiary of bank holding company: RCW 30.04.550 through 30.04.570.

30.49.040 Merger to resulting state bank— Exception—Agreement, contents, approval, amendment. This section is applicable where there is to be a resulting state bank, except in the case of reorganization and exchange as authorized by this title.

(1) The board of directors of each merging state bank shall, by a majority of the entire board, approve a merger agreement which shall contain:

(a) The name of each merging state or national bank and location of each office;

(b) With respect to the resulting state bank, (i) the name and location of the principal and other offices; (ii) the name and residence of each director to serve until the next annual meeting of the stockholders; (iii) the name and residence of each officer; (iv) the amount of capital, the number of shares and the par value of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the exchange of shares of the merging state or national banks for such consideration as has been agreed to in the merger agreement;

(d) A statement that the agreement is subject to approval by the supervisor of banking and the stockholders of each merging state or national bank;

(e) Provisions governing the manner of disposing of the shares of the resulting state bank if such shares are to be issued in the transaction and are not taken by dissenting shareholders of merging state or national banks;

(f) Such other provisions as the supervisor of banking requires to discharge his or her duties with respect to the merger;

(2) After approval by the board of directors of each merging state bank, the merger agreement shall be submitted to the supervisor of banking for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any merging national bank;

(3) Within sixty days after receipt by the supervisor of banking of the papers specified in subsection (2) of this section, the supervisor of banking shall approve or disapprove of the merger agreement, and if no action is taken, the agreement shall be deemed approved. The supervisor of banking shall approve the agreement if it appears that:

(a) The resulting state bank meets the requirements of state law as to the formation of a new state bank;

(b) The agreement provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting state bank and its other activities which are to continue or are to be undertaken;

(c) The agreement is fair;

(d) The merger is not contrary to the public interest.

If the supervisor of banking disapproves an agreement, he or she shall state his or her objections and give an opportunity to the merging state or national banks to amend the merger agreement to obviate such objections. [1982 c 196 § 9; 1955 c 33 § 30.49.040. Prior: 1953 c 234 § 4.]

Severability—1982 c 196: See note following RCW 30.04.550.

Reorganization as subsidiary of bank holding company: RCW 30.04.550 through 30.04.570.

Title 31

MISCELLANEOUS LOAN AGENCIES

Chapters

31.04 Industrial loan companies.

31.12A Credit union share guaranty association act of 1975.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 31.04

INDUSTRIAL LOAN COMPANIES

Sections

31.04.040 Schedule of fees.

Master license system exemption: RCW 19.02.800.

31.04.040 Schedule of fees. The supervisor of banking shall collect in advance the following fees:

For filing application for certificate of authority and attendant investigation as required by the law, the cost thereof, but not less than \$500.00 (If the cost of such attendant examination shall exceed \$500.00, the applicant shall pay such excess when ascertained by the supervisor of banking.)

- For filing application for branch certificate of authority or its relocation and attendant examination as required by law, the cost thereof, but not less than 100.00
(If the cost of such attendant investigation exceeds \$100.00, the applicant shall pay such excess when ascertained by the supervisor of banking.)
- For filing articles of incorporation, or amendments thereof, or other certificates required to be filed in his office 100.00
- For issuing a certificate of increase or decrease of capital stock 100.00
- For issuing each certificate of authority 100.00

Every industrial loan company shall also pay to the secretary of state for filing any instrument with him or her the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations. [1982 c 10 § 4. Prior: 1981 c 312 § 1; 1981 c 302 § 20; 1929 c 71 § 1; 1923 c 172 § 3; RRS § 3862-3.]

Severability—1982 c 10: See note following RCW 6.12.100.
Severability—1981 c 302: See note following RCW 19.76.100.

Chapter 31.12A
CREDIT UNION SHARE GUARANTY
ASSOCIATION ACT OF 1975

- Sections
- 31.12A.005 Purpose.
 - 31.12A.010 Definitions.
 - 31.12A.030 Powers of the association.
 - 31.12A.040 Membership—Association operative date.
 - 31.12A.050 Funding—Liquidity—Investments—Termination.
 - 31.12A.060 Management.
 - 31.12A.090 Liquidation of members—Assessment.

Master license system exemption: RCW 19.02.800.

31.12A.005 Purpose. The purpose of this chapter is to provide funds arising from assessments upon member credit unions chartered by the state of Washington (1) to guarantee payment, to the extent herein provided, to credit union shareholders of the amount of loss to their share and deposit accounts in a liquidating member credit union, and (2) to provide other services to promote the stability of state-chartered credit unions. In the judgment of the legislature, the foregoing purposes not being capable of accomplishment by a corporation created under general laws, the creation of the nonprofit association hereinafter in this chapter described is deemed essential for the protection of the general welfare. [1982 c 67 § 1; 1975 1st ex.s. c 80 § 2.]

31.12A.010 Definitions. As used in this chapter, unless the context otherwise requires, the terms defined in this section shall have the meanings indicated.

- (1) "Assessment" means the amount levied by the association against its members in order to carry out its stated purposes.
- (2) "Association" means the credit union share guaranty association created in RCW 31.12A.020.
- (3) "Board" means board of directors of the guaranty association.
- (4) "Credit union" means a credit union organized and authorized under laws contained in chapter 31.12 RCW, as now or hereafter amended.
- (5) "Initial member" means a member qualified by the supervisor within sixty days after September 1, 1975, but not yet ratified by the board.
- (6) "Member" means a member of the guaranty association, ratified by the board.
- (7) "Share account" of a credit union shareholder includes the share and/or deposit accounts and the share and/or deposit certificates of which the shareholder is owner of record with the credit union.
- (8) "Shareholder" includes both members and non-members of a credit union, who have either shares and/or deposits in the credit union, including deposits of deferred compensation as referred to in RCW 31.12.305.
- (9) "Supervisor" means the state supervisor of the division of savings and loan associations, or his successor in the event of a departmental restructuring.
- (10) "Transfer" means entering on the credit union's books of account a decrease to one account and a corresponding increase to another account. [1982 c 67 § 2; 1980 c 41 § 11; 1975 1st ex.s. c 80 § 3.]

Severability—1980 c 41: See note following RCW 31.12.080.

31.12A.030 Powers of the association. The association shall have power:

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

or bonding contracts necessary or advisable in the conduct of its business; and

(9) To carry out the applicable provisions of this chapter. [1982 c 67 § 3; 1975 1st ex.s. c 80 § 5.]

31.12A.040 Membership—Association operative date. (1) Every credit union meeting the following qualifications is eligible for membership in the association:

(a) Must be in business as a duly authorized credit union.

(b) Must be operating in compliance with applicable laws and the rules and regulations of the supervisor.

(c) Must not be in the process of liquidation, either voluntary or involuntary.

(2) Prior to the operative date stated in subsection (3) of this section, application for membership shall be made by the credit union in writing to the association on forms designed and furnished by the association, and filed with the secretary. An application fee, as fixed in the bylaws, payable to the order of the association, shall accompany each such application. If the application is found to be:

(a) Complete, and the applicant qualified for membership: The association shall issue and deliver to the applicant a certificate of membership in appropriate form.

(b) Incomplete: The association shall require the applicant to refile said application in its entirety within thirty days.

(c) Not qualified: The association shall notify said applicant within thirty days of filing: *Provided*, That said applicant will be allowed to meet qualification standards under conditions as provided in the bylaws of the association.

(3) The initial membership of the association shall be comprised of all those credit unions qualified under subsection (1) of this section by the supervisor within sixty days after September 1, 1975, with final ratification by the initial board of directors subject to full compliance of all qualifications for membership within one hundred twenty days after September 1, 1975.

(4) Membership in either this association or the federal share insurance program under the national credit union administration shall be mandatory. [1982 c 67 § 4; 1975 1st ex.s. c 80 § 6.]

31.12A.050 Funding—Liquidity—Investments—Termination. (1) Credit unions approved by the supervisor and ratified by the board for membership subsequent to those initial members shall establish a share guaranty association contingency reserve by transferring from their guaranty fund an amount equal to one-half of one percent of the total insurable outstanding share and deposit balances as of the 31st of December of the year preceding membership. When one member credit union is merged into another member credit union, the continuing credit union shall include in its share guaranty contingency reserve the amount of the share guaranty contingency reserve of the merged credit union. A nonmember credit union merging with a member credit union must transfer into the share guaranty contingency reserve of the continuing credit union an

amount equal to one-half of one percent of the total insurable outstanding share and deposit balances of the nonmember credit union as of the effective date of the merger, as determined by the supervisor. Such sum shall be retained in the credit union share guaranty contingency reserve as an integral part of its guaranty fund until such time and if necessary to be drawn for the purposes set forth in this chapter.

(2) Continued funding of the association shall be by annual transfer at the rate of one-eighteenth of one percent of each member's insurable outstanding share and deposit balance as of December 31st of each year. Such funds shall be retained by the member in its share guaranty contingency reserve until such time it becomes necessary to be drawn for the purposes set forth in this chapter. Such sum may be offset from the statutory transfer requirement to the guaranty fund. The board, with concurrence of the supervisor, shall have authority to require a transfer of an additional amount not to exceed one-eighteenth of one percent of each member's insurable share and deposit balance in any one year, as conditions may warrant, to be retained until such time it becomes necessary to be drawn for the purposes set forth in this chapter.

(3) Members' share guaranty association contingency reserve funds shall be invested in investments as permitted in the bylaws of the association.

(4) The board, in concurrence with the supervisor, may also suspend or diminish the transfer in any given period after reaching a normal operating sufficiency as provided in the bylaws.

(5) Membership in this association may be terminated upon approval by a majority of the credit union members responding to such a proposal and subject further to acceptance by the national credit union administration of continued share insurance coverage under the national credit union administration share insurance program. Notice of such intentions shall be in writing to the association's board of directors at least twelve months prior to such contemplated action: *Provided*, That in the event of conversion from state to federal credit union charter the converting member will notify the association in compliance with RCW 31.12.390. Share guarantee coverage through the association will terminate with the effective date of the federal charter. [1982 c 67 § 5; 1980 c 41 § 12; 1975 1st ex.s. c 80 § 7.]

Severability—1980 c 41: See note following RCW 31.12.080.

31.12A.060 Management. (1) The affairs and operations of the association shall be managed and conducted by a board of directors and officers.

(2) The board shall consist of not more than five directors, as provided by the bylaws. Directors shall be elected by members for terms, as fixed by the bylaws, of not more than three years. The board shall have power to fill vacancies occurring during the interim between annual meetings and until an election is held at the next annual meeting, to fill that portion of the unexpired term.

(3) The officers shall be elected by the board, and shall be a chairman of the board, a vice chairman, a

secretary and a treasurer. The offices of secretary and treasurer may be held by the same person. The officers shall have the usual and customary powers and responsibilities of the respective offices, as fixed by the bylaws.

(4) The directors shall be compensated only to the extent of actual out-of-pocket travel and meeting expenses as provided in the bylaws. [1982 c 67 § 6; 1975 1st ex.s. c 80 § 8.]

31.12A.090 Liquidation of members—Assessment.

(1) In the event a member of the association is placed in liquidation, either voluntary or involuntary, the supervisor or his representative shall determine as soon as is reasonably possible the probable assessment, if any, resulting therefrom to its shareholders. If an assessment seems to be indicated, the supervisor or his representative shall promptly inform the association in writing of the probable amount of such assessment. In determining the probable assessment for the liquidating member, charges, if any, for services of the supervisor or his representative, or his staff, as well as accrued but unpaid interest or dividends on share accounts, shall not be deemed liabilities of the liquidating credit union; and, with the consent of the association, all illiquid holdings (furniture, fixtures and other personal property) of the liquidating member, at the fair recoverable value thereof, as determined by the supervisor or his representative, may be excluded as assets. In determining the assessment as to a particular share account, the supervisor or his representative shall first deduct the amount of any accrued and currently payable obligation of the shareholder to the liquidating credit union.

(2) Within thirty days after receipt by the association of the foregoing information, the board shall notify the remaining members of the association of the aggregate amount required to make good the probable net loss to share accounts, subject to the following conditions:

(a) The amount of loss to be made good to any shareholder shall not be less than provided by the national credit union administration share insurance program, with authority vested in the association to increase the coverage.

(b) To the amount of the assessment as otherwise determined pursuant to this section, the board may add such amount as it may deem to be reasonably necessary to cover its clerical, mailing and other expense connected with the assessment and distribution of the proceeds thereof to shareholders of the liquidating credit union; not to exceed actual costs of such mailing and clerical services.

(c) The amount of the assessment shall be prorated among the assessed members against their share guaranty contingency reserve: *Provided*, That members shall not be liable for any amount of assessment exceeding their share guaranty contingency reserve or for any assessments exceeding those permitted in RCW 31.12A-.050 as now or hereafter amended.

(d) That a plan for an orderly and expeditious liquidation be presented to the board of directors for their consideration and approval. In cases where a central or other eligible credit union is authorized to act as liquidator or liquidating agent, the association would provide an indemnity against loss to such authorized credit union.

(3) In case of liquidation the board shall cause written notice to each member only if a potential assessment is indicated and the probable amount of such contingency as it relates to a percentage of their total share guaranty contingency reserve. The actual assessment shall be paid by members upon completion of liquidation or sooner, as determined by the board of directors. In all cases the total reserve structure of a liquidating credit union, including its share guaranty contingency reserve, shall be utilized in concluding the liquidation. [1982 c 67 § 7; 1975 1st ex.s. c 80 § 11.]

Title 32

MUTUAL SAVINGS BANKS

Chapters

32.08 Organization and powers.

Master license system exemption: RCW 19.02.800.

Chapter 32.08

ORGANIZATION AND POWERS

Sections

- 32.08.115 Guaranty fund—Payment of interest and dividends—Legislative declaration.
- 32.08.116 Guaranty fund—Payment of interest and dividends—When authorized.

32.08.115 Guaranty fund—Payment of interest and dividends—Legislative declaration. It is hereby recognized that the savings banks of the state of Washington are affected adversely by the uncertainties and ambiguities in the law relating to guaranty funds. It is the express purpose of the legislature in enacting RCW 32.08.116 to clarify that the law permits payment of interest and dividends from the guaranty funds of savings banks and RCW 32.08.116 shall be liberally construed to that end. [1982 c 5 § 1.]

32.08.116 Guaranty fund—Payment of interest and dividends—When authorized. A savings bank not having net earnings or undivided profits or other surplus may pay interest and dividends from its guaranty fund upon prior written approval of the supervisor, which approval shall not be withheld unless the supervisor has determined that such payments would place the savings bank in an unsafe and unsound condition. [1982 c 5 § 2.]

Title 33

SAVINGS AND LOAN ASSOCIATIONS

Chapters

- 33.04 General provisions.
- 33.08 Organization—Articles—Bylaws.
- 33.12 Powers and restrictions.
- 33.16 Directors, officers and employees.
- 33.20 Members—Savings.
- 33.24 Loans and investments.
- 33.28 Fees and taxes.
- 33.32 Foreign associations.
- 33.36 Prohibited acts—Penalties.
- 33.40 Insolvency, liquidation, merger.
- 33.43 Conversion to and from federal association.
- 33.44 Conversion to mutual savings bank.
- 33.46 Conversion of savings bank or commercial bank to association.
- 33.48 Stock associations.

Master license system exemption: RCW 19.02.800.

Chapter 33.04

GENERAL PROVISIONS

Sections

- 33.04.002 Legislative declaration, intent—Purpose.
- 33.04.005 Definitions.
- 33.04.010 Director to act for and in lieu of supervisor, when.
- 33.04.020 Supervisor—Powers and duties.
- 33.04.025 Rules and regulations.
- 33.04.040 Repealed.
- 33.04.042 Cease and desist order—Notice of charges—
Grounds—Hearing on—Issuance of order,
when—Contents—Effective, when.
- 33.04.044 Temporary cease and desist order—Issued, when—
Effective, when—Duration.
- 33.04.046 Temporary cease and desist order—Injunction against
order on application of association—Jurisdiction.
- 33.04.048 Temporary cease and desist order—Injunction to en-
force—Jurisdiction.
- 33.04.050 Repealed.
- 33.04.052 Cease and desist order—Administrative hearing—
Procedure—Modification, termination, or setting
aside of order—Review of order, procedure—
Manner of service of notice or order.
- 33.04.054 Cease and desist order—Enforcement—
Jurisdiction.
- 33.04.110 Examination reports and information—Confidential
and privileged—Exceptions, limitations and proce-
dure—Penalty.

33.04.002 Legislative declaration, intent—Purpose. The legislature finds that the statutory law relating to savings and loan associations has not been generally updated or modernized since 1945; and, as a result, many changes to Title 33 RCW should now be made with respect to the powers and duties of the supervisor; to the provisions relating to the organization, management and conversion of savings and loan associations; and to the powers and restrictions placed upon savings and loan associations to make investments. While it is the intent of the legislature to grant permissive investment powers to state-chartered savings and loan associations, it does not intend these associations to abandon

the residential financing market in Washington. It, therefore, finds that the powers granted in *this act are for the purpose of updating and modernizing the law relating to savings and loan associations, thereby creating a more secure and responsive financial environment in which the residential home buyer will continue to obtain financing. [1982 c 3 § 1.]

***Reviser's note:** "This act" consists of (1) the enactment of RCW 33.04.002, 33.04.005, 33.04.042, 33.04.044, 33.04.046, 33.04.048, 33.04.052, 33.04.054, 33.08.055, 33.20.125, 33.24.007, 33.24.015, 33.24.115, 33.24.345, 33.24.375, 33.44.125, 33.44.130, 33.46.130, and 33.48.320; (2) the 1982 c 3 amendments to RCW 33.04.010, 33.04.020, 33.04.025, 33.04.110, 33.08.020, 33.08.030, 33.08.040, 33.08.050, 33.08.060, 33.08.080, 33.08.090, 33.08.110, 33.12.010, 33.12.012, 33.12.014, 33.12.060, 33.12.140, 33.12.150, 33.16.020, 33.16.030, 33.16.040, 33.16.050, 33.16.060, 33.16.080, 33.16.090, 33.16.120, 33.16.150, 33.20.010, 33.20.040, 33.20.060, 33.20.150, 33.20.180, 33.20.190, 33.24.005, 33.24.010, 33.24.100, 33.24.160, 33.24.295, 33.24.350, 33.24.360, 33.24.370, 33.28.020, 33.28.040, 33.32.020, 33.32.030, 33.32.070, 33.36.030, 33.36.040, 33.36.050, 33.36.060, 33.40.020, 33.40.040, 33.40.050, 33.40.070, 33.40.075, 33.40.110, 33.40.120, 33.40.130, 33.43.010, 33.44.020, 33.44.080, 33.44.090, 33.46.010, 33.46.020, 33.46.030, 33.46.040, 33.46.050, 33.46.060, 33.46.070, 33.46.080, 33.46.100, 33.46.110, 33.48.025, 33.48.030, 33.48.040, 33.48.080, 33.48.090, 33.48.100, 33.48.110, 33.48.120, 33.48.140, 33.48.170, 33.48.180, 33.48.200, 33.48.210, 33.48.220, 33.48.230, 33.48.240, 33.48.250, 33.48.260, 33.48.270, 33.48.280, 33.48.290, and 43.19.100; and (3) the repeal of RCW 33.04.040, 33.04.050, 33.08.120, 33.12.030, 33.12.040, 33.12.050, 33.12.070, 33.12.080, 33.12.090, 33.12.110, 33.12.120, 33.12.130, 33.12.160, 33.16.070, 33.16.100, 33.16.110, 33.16.140, 33.16.160, 33.20.020, 33.20.090, 33.20.100, 33.20.110, 33.20.120, 33.24.095, 33.24.110, 33.24.120, 33.24.130, 33.24.135, 33.24.140, 33.24.145, 33.24.150, 33.24.170, 33.24.180, 33.24.230, 33.24.240, 33.24.250, 33.24.260, 33.24.280, 33.24.290, 33.28.030, 33.32.010, 33.32.040, 33.40.090, 33.40.100, 33.44.010, 33.48.010, 33.48.020, 33.48.050, 33.48.060 and 33.48.070.

Severability—1982 c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 3 § 118.]

33.04.005 Definitions. Unless the context requires otherwise, the definitions in this section apply throughout this title.

(1) "Branch" means an established manned place of business or a manned mobile facility or other manned facility of an association, other than the principal office, at which deposits may be taken.

(2) "Depositor" means a person who deposits money in an association.

(3) "Domestic association" means a savings and loan association which is incorporated under the laws of this state.

(4) "Federal association" means a savings and loan association which is incorporated under federal law.

(5) "Foreign association" means a savings and loan association organized under the laws of another state.

(6) (a) "Member," in a mutual association, means a depositor or any other person who is a member of a class of persons granted membership rights by the articles of incorporation or bylaws.

(b) "Member," in a stock association, means a stockholder or any other person who is a member of a class of persons granted membership rights by the articles of incorporation or bylaws.

(7) "Mutual association" means an association formed without authority to issue stock.

(8) "Savings and loan association," "savings association" or "association," unless otherwise restricted, means a domestic or foreign association and includes a stock or a mutual association.

(9) "Stock association" means an association formed with the authority to issue stock. [1982 c 3 § 2.]

Severability—1982 c 3: See note following RCW 33.04.002.

"Mortgage" includes deed of trust and real estate contract: RCW 33.24.005.

"Real property" defined: RCW 33.24.007.

33.04.010 Director to act for and in lieu of supervisor, when. Whenever, in this title or any prior acts relating to savings and loan associations, the term "Supervisor" or "Supervisor of Savings and Loans" appears, it is understood that the director of the department of general administration may act for and in lieu of the supervisor of savings and loans, if there is no supervisor of savings and loan associations duly qualified to act. [1982 c 3 § 3; 1945 c 235 § 119-A; Rem. Supp. 1945 § 3717-238. Prior: 1935 c 171 § 5; 1933 c 183 § 2; 1890 p 56 § 22.]

Severability—1982 c 3: See note following RCW 33.04.002.

Short title—1945 c 235: "This act shall be known as the 'Savings and Loan Association Act of 1945.'" [1945 c 235 § 1. Prior: 1933 c 183 § 1.]

Severability—1945 c 235: "If any section, provision, or part of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole, or of any section, provision, or part thereof not adjudged to be invalid or unconstitutional." [1945 c 235 § 119. Prior: 1935 c 171 § 5; 1933 c 183 § 112.]

The two foregoing annotations apply to chapters 33.04 through 33.43 and 33.48 RCW.

33.04.020 Supervisor—Powers and duties. The supervisor:

(1) Shall be charged with the administration and enforcement of this title and shall have and exercise all powers necessary or convenient thereunto;

(2) Shall issue to each association doing business hereunder, when it shall have paid its annual license fee and be duly qualified otherwise, a certificate of authority authorizing it to transact business;

(3) Shall require of each association an annual statement and such other reports and statements as the supervisor deems desirable, on forms to be furnished by the supervisor;

(4) Shall require each association to conduct its business in compliance with the provisions of this title;

(5) Shall visit and examine into the affairs of every association, at least once in each biennium; may appraise and revalue its investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such association for such purposes. The supervisor may accept in lieu of an examination the report of the examining division of the federal home loan bank board, or the report of the savings and loan department of another state, which has made and submitted a report of the condition of the affairs of the association, and if approved, the report shall have the same force and effect as though the

examination were made by the supervisor or one of his appointees;

(6) May accept or exchange any information or reports with the examining division of the federal home loan bank board or other like agency which may insure the accounts in an association or to which an association may belong or with the savings and loan department of another state which has authority to examine any association doing business in this state;

(7) May visit and examine into the affairs of any nonpublicly-held corporation in which the association has a material investment and any publicly-held corporation the capital stock of which is controlled by the association; may appraise and revalue its investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such corporation for such purposes;

(8) May, in the supervisor's discretion, administer oaths to and to examine any person under oath concerning the affairs of any association or nonpublicly-held corporation in which the association has a material investment and any publicly-held corporation the capital stock of which is controlled by an association and, in connection therewith, to issue subpoenas and require the attendance and testimony of any person or persons at any place within this state, and to require witnesses to produce any books, papers, documents, or other things under their control material to such examination; and

(9) Shall have power to commence and prosecute actions and proceedings to enforce the provisions of this title, to enjoin violations thereof, and to collect sums due to the state of Washington from any association. [1982 c 3 § 4; 1979 c 113 § 1; 1973 c 130 § 22; 1945 c 235 § 95; Rem. Supp. 1945 § 3717-214. Prior: 1933 c 183 §§ 79, 94, 95; 1919 c 169 § 12; 1913 c 110 § 19; 1890 p 56 § 19.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: "If any provision of this 1979 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." [1979 c 113 § 17.]

Severability—1973 c 130: See note following RCW 33.24.350.

33.04.025 Rules and regulations. The supervisor shall adopt uniform rules and regulations in accordance with the administrative procedure act, chapter 34.04 RCW, to govern examinations and reports of associations and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title. He shall mail a copy of the rules and regulations to each savings and loan association at its principal place of business. The person doing the mailing shall make and file his affidavit thereof in the office of the supervisor. [1982 c 3 § 5; 1973 c 130 § 20.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

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

33.04.042 Cease and desist order—Notice of charges—Grounds—Hearing on—Issuance of order, when—Contents—Effective, when. (1) The supervisor may issue and serve upon an association a notice of charges if in the opinion of the supervisor the association:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the association;

(b) Is violating or has violated a material provision of any law, rule, or any condition imposed in writing by the supervisor in connection with the granting of any application or other request by the association or any written agreement made with the supervisor; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection if the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the association. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the supervisor at the request of the association.

Unless the association appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the supervisor finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the association an order to cease and desist from the violation or practice. The order may require the association and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the association to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the association concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court. [1982 c 3 § 7.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.04.044 Temporary cease and desist order—Issued, when—Effective, when—Duration. Whenever the supervisor determines that the acts specified in RCW 33.04.042 or their continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the association or to otherwise seriously prejudice the interests of its depositors, the supervisor may also issue a temporary order requiring the association to cease and desist from the violation or practice. The order shall become effective upon service on the association and shall

remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 33.04.046 pending the completion of the administrative proceedings under the notice and until such time as the supervisor shall dismiss the charges specified in the notice or until the effective date of a cease and desist order issued against the association under RCW 33.04.042. [1982 c 3 § 8.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.04.046 Temporary cease and desist order—Injunction against order on application of association—Jurisdiction. Within ten days after an association has been served with a temporary cease and desist order, the association may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 33.04.044.

The superior court shall have jurisdiction to issue the injunction. [1982 c 3 § 9.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.04.048 Temporary cease and desist order—Injunction to enforce—Jurisdiction. In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 33.04.044, the supervisor may apply to the superior court of the county of the principal place of business of the association for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation. [1982 c 3 § 10.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

33.04.052 Cease and desist order—Administrative hearing—Procedure—Modification, termination, or setting aside of order—Review of order, procedure—Manner of service of notice or order. (1) Any administrative hearing provided in RCW 33.04.042 may be held at such place as is designated by the supervisor and shall be conducted in accordance with chapter 34.04 RCW. The hearing shall be private unless the supervisor determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

Within sixty days after the hearing, the supervisor shall render a decision which shall include findings of fact upon which the decision is based and the supervisor shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 33.04.042.

Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected association under subsection (2) of this section and until the record in the proceeding has been filed as therein provided, the supervisor may at any time modify, terminate, or set aside any order upon such notice and in such manner as the supervisor deems

proper. Upon filing the record, the supervisor may modify, terminate, or set aside any order only with permission of the court.

The judicial review provided in this section for an order shall be exclusive.

(2) Any party to the proceeding or any person required by an order issued under RCW 33.04.042, 33.04.044 or 33.04.048 to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected association within ten days after the date of service of the order a written petition praying that the order of the supervisor be modified, terminated, or set aside. A copy of the petition shall be immediately served upon the supervisor and the supervisor shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record to affirm, modify, terminate, or set aside in whole or in part the order of the supervisor except that the supervisor may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it is subject to appellate review under the rules of court.

(3) The commencement of proceedings for judicial review under subsection (2) of this section shall not operate as a stay of any order issued by the supervisor unless specifically ordered by the court.

(4) Service of any notice or order required to be served under RCW 33.04.042 or 33.04.044 shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state. [1982 c 3 § 11.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.04.054 Cease and desist order—Enforcement—Jurisdiction. The supervisor may apply to the superior court of the county of the principal place of business of the association affected for the enforcement of any effective and outstanding order issued under RCW 33.04.042, 33.04.044, or 33.04.048, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order or to review, modify, suspend, terminate, or set aside any order except as provided in RCW 33.04.046 and 33.04.052. [1982 c 3 § 12.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.04.110 Examination reports and information—Confidential and privileged—Exceptions, limitations and procedure—Penalty. (1) Except as otherwise provided in this section, all examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of associations are confidential and privileged information and shall not be made public or otherwise disclosed to any

person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the supervisor may furnish in whole or in part examination reports prepared by the supervisor's office to federal agencies empowered to examine state associations, to savings and loan supervisory agencies of other states which have authority to examine associations doing business in this state, to the attorney general in his role as legal advisor to the supervisor, to the examined association as provided in subsection (4) of this section, and to officials empowered to investigate criminal charges. If the supervisor furnishes any examination report to officials empowered to investigate criminal charges, the supervisor may only furnish that part of the report which is necessary and pertinent to the investigation, and the supervisor may do this only after notifying the affected savings and loan association and any customer of the savings and loan association who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause. The supervisor may also furnish in whole or in part examination reports concerning any association in danger of insolvency to the directors or officers of a potential acquiring party when, in the supervisor's opinion, it is necessary to do so in order to protect the interests of members, depositors, or borrowers of the examined association.

(3) All examination reports furnished under subsection (2) of this section shall remain the property of the division of savings and loan associations and, except as provided in subsection (4) of this section, no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: *Provided*, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the division of savings and loan associations is designed for use in the supervision of the association, and the supervisor may furnish a copy of the report to the savings and loan association examined. The report shall remain the property of the supervisor and will be furnished to the association solely for its confidential use. Neither the association nor any of its directors, officers, or employees may disclose or make public in any manner the report or any portion thereof without permission of the board of directors of the examined association. The permission shall be entered in the minutes of the board.

(5) Examination reports and information obtained by the supervisor and the supervisor's staff in conducting examinations shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the supervisor, petition the court for an in

camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the supervisor.

(7) This section shall not apply to investigation reports prepared by the supervisor and the supervisor's staff concerning an application for a new association or an application for a branch of an association. The supervisor may adopt rules making confidential portions of such reports if in the supervisor's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the supervisor considers necessary to fully evaluate the application.

(8) Every person who intentionally violates any provision of this section is guilty of a gross misdemeanor. [1982 c 3 § 6; 1977 ex.s. c 245 § 3.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1977 ex.s. c 245: See note following RCW 30.04.075.

Chapter 33.08

ORGANIZATION—ARTICLES—BYLAWS

Sections

33.08.020	Who may form association.
33.08.030	Domestic association as stock or mutual association— Articles of incorporation.
33.08.040	Bylaws.
33.08.050	Articles and bylaws to supervisor.
33.08.055	Certificate of incorporation—Application, con- tents—Filing fee.
33.08.060	Investigation—Fee.
33.08.080	Articles and bylaws filed—Certificate of incorpora- tion issued—Revocation of right to engage in busi- ness, when.
33.08.090	Amendment of articles.
33.08.110	Branch association—Authorized—Procedure— Limitations—Discontinuance of branch, procedure.
33.08.120	Repealed.

33.08.020 Who may form association. Any individuals desiring to transact a business of an association may, by complying with this chapter, become a body corporate for that purpose. [1982 c 3 § 13; 1945 c 235 § 3; Rem. Supp. 1945 § 3717–122. Prior: 1933 c 183 § 3; 1925 ex.s. c 144 § 1; 1913 c 110 § 1; 1903 c 116 § 1; 1890 p 56 § 1.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.08.030 Domestic association as stock or mutual association—Articles of incorporation. A domestic association shall be incorporated either as a stock or a mutual association. The articles of incorporation shall specifically state:

(1) The name of the association, which shall include the words "Savings Association" and may include the words "and Loan";

(2) The city or town and county in which it is to have its principal place of business;

(3) The name, occupation, and place of residence of all incorporators, the majority of whom shall be Washington residents;

(4) Its purposes;

(5) Its duration, which may be for a stated number of years or perpetual;

(6) The amount of paid-in savings with which the association will commence business;

(7) The names, occupations, and addresses of the first directors;

(8) Whether the association is organized as a stock or mutual association and who has membership rights and the relative rights of different classes of members of the association.

The articles of incorporation may contain any other provisions consistent with the laws of this state and the provisions of this title pertaining to the association's business or the conduct of its affairs. [1982 c 3 § 14; 1949 c 20 § 1; 1945 c 235 § 4; Rem. Supp. 1949 § 3717–123. Prior: 1933 c 183 § 4; 1925 ex.s. c 144 § 1; 1919 c 169 § 5; 1913 c 110 §§ 1, 6; 1903 c 116 § 1; 1890 p 56 § 1.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.08.040 Bylaws. The incorporators shall prepare bylaws for the government of the association, which shall include:

(1) The offices of the association and the respective duties assigned to them;

(2) Policies and procedures for the conduct of the business of the association;

(3) Any other matters deemed necessary or expedient.

Such bylaws must conform in all respects to the provisions of this title and the laws of this state. [1982 c 3 § 15; 1945 c 235 § 5; Rem. Supp. 1945 § 3717–124. Prior: 1933 c 183 § 5; 1919 c 169 § 1; 1913 c 110 § 2; 1890 p 56 § 3.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.08.050 Articles and bylaws to supervisor. The incorporators shall deliver to the supervisor triplicate originals of the articles of incorporation and duplicate copies of its proposed bylaws. [1982 c 3 § 16; 1981 c 302 § 30; 1945 c 235 § 6; Rem. Supp. 1945 § 3717–125. Prior: 1933 c 183 § 6; 1890 p 56 § 3.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1981 c 302: See note following RCW 19.76.100.

33.08.055 Certificate of incorporation—Application, contents—Filing fee. When the incorporators of a domestic association deliver the articles of incorporation and bylaws to the supervisor, the incorporators shall submit an application for a certificate of incorporation, signed and verified by the incorporators, together with the filing fee. The application shall set forth:

(1) The names and addresses of the incorporators and proposed directors and officers of the association;

(2) A statement of the character, financial responsibility, experience, and fitness of the directors and officers to engage in the association business;

(3) Statements of estimated receipts, expenditures, earnings, and financial condition of the association for

the first two years or such longer period as the supervisor may require;

(4) A showing that the association will have a reasonable chance to succeed in the market area in which it proposes to operate;

(5) A showing that the public convenience and advantage will be promoted by the formation of the proposed association; and

(6) Any other matters the supervisor may require. [1982 c 3 § 17.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.08.060 Investigation—Fee. Upon receipt of the articles of incorporation and bylaws, the supervisor shall proceed to determine, from all sources of information and by such investigation as he may deem necessary, whether:

(1) The proposed articles and bylaws comply with all requirements of law;

(2) The incorporators and directors possess the qualifications required by this title;

(3) The incorporators have available for the operation of the business at the specified location sufficient cash assets;

(4) The general fitness of the persons named in the articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purposes of this title;

(5) The public convenience and advantage will be promoted by allowing such association to be incorporated and engage in business in the market area indicated; and

(6) The population and industry of the market area afford reasonable promise of adequate support for the proposed association.

For the purpose of this investigation and determination, the incorporators, when delivering the articles and bylaws to the supervisor, shall pay to the supervisor an investigation fee, the amount of which shall be established by rule of the supervisor. [1982 c 3 § 18; 1969 c 107 § 1; 1963 c 246 § 1; 1945 c 235 § 7; Rem. Supp. 1945 § 3717–126. Prior: 1933 c 183 § 6; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 3.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.08.080 Articles and bylaws filed—Certificate of incorporation issued—Revocation of right to engage in business, when. If the supervisor approves the incorporation of the proposed association, the supervisor shall forthwith return two copies of the articles of incorporation and one copy of the bylaws to the incorporators, retaining the others as a part of the files of the supervisor's office. The incorporators, thereupon, shall file one set of the articles with the secretary of state and retain the other set of the articles of incorporation and the bylaws as a part of its minute records, paying to the secretary of state such fees and charges as are required by law. Upon

receiving an original set of the approved articles of incorporation, duly endorsed by the supervisor as herein provided, together with the required fees, the secretary of state shall issue the secretary of state's certificate of incorporation and deliver the same to the incorporators, whereupon the corporate existence of the association shall begin. Unless an association whose articles of incorporation and bylaws have been approved by the supervisor shall engage in business within two years from the date of such approval, its right to engage in business shall be deemed revoked and of no effect. In the supervisor's discretion, the two-year period in which the association must commence business may be extended for a reasonable period of time, which shall not exceed one additional year. [1982 c 3 § 19; 1981 c 302 § 31; 1945 c 235 § 9; Rem. Supp. 1945 § 3717–128. Prior: 1933 c 183 § 8; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 1.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1981 c 302: See note following RCW 19.76.100.

33.08.090 Amendment of articles. The members, at any meeting called for the purpose, may amend the articles of incorporation of the association by a majority vote of the members present, in person or in proxy. The amended articles shall be filed with the supervisor and be subject to the same procedure of approval, refusal, appeal, and filing with the secretary of state as provided for the original articles of incorporation. Proposed amendments of the articles of incorporation shall be submitted to the supervisor at least thirty days prior to the meeting of the members.

If the amendments include a change in the association's corporate name, the association shall give notice by mail to each association doing business within this state at its principal place of business of the filing of the amended articles. Persons interested in protesting an amendment changing the association's corporate name may contact the supervisor in person or by writing prior to a date which shall be given in the notice. [1982 c 3 § 20; 1981 c 302 § 32; 1979 c 113 § 2; 1945 c 235 § 10; Rem. Supp. 1945 § 3717–129. Prior: 1933 c 183 §§ 9, 10; 1925 ex.s. c 144 § 1; 1913 c 110 § 1; 1903 c 116 § 1; 1890 p 56 §§ 16, 17.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1981 c 302: See note following RCW 19.76.100.

Severability—1979 c 113: See note following RCW 33.04.020.

33.08.110 Branch association—Authorized—Procedure—Limitations—Discontinuance of branch, procedure. An association with the written approval of the supervisor, may establish and operate branches in any place within the state.

An association desiring to establish a branch shall file a written application therefor with the supervisor, who shall approve or disapprove the application within four months after receipt.

The supervisor's approval shall be conditioned on a finding that the resources in the market area of the proposed location offer a reasonable promise of adequate support for the proposed branch and that the proposed

branch is not being formed for other than the legitimate purposes under this title. A branch shall not be established or permitted if the contingent fund, loss reserves and guaranty stock are less than the aggregate paid-in capital which would be required by law as a prerequisite to the establishment and operation of an equal number of branches in like locations by a commercial bank. If the application for a branch is not approved, the association shall have the right to appeal in the same manner and within the same time as provided by RCW 33.08-.070 as now or hereafter amended. The association when delivering the application to the supervisor shall transmit to the supervisor a check in an amount established by rule to cover the expense of the investigation. An association shall not move any office more than two miles from its existing location without prior approval of the supervisor.

The board of directors of an association, after notice to the supervisor, may discontinue the operation of a branch. The association shall keep the supervisor informed in the matter and shall notify the supervisor of the date operation of the branch is discontinued. [1982 c 3 § 21; 1974 ex.s. c 98 § 1; 1969 c 107 § 2; 1959 c 280 § 7.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

Chapter 33.12

POWERS AND RESTRICTIONS

Sections

33.12.010	Powers in general.
33.12.012	Powers conferred upon federal savings and loan association as of February 25, 1982.
33.12.014	Powers conferred upon federal savings and loan association—Reserve or other requirements—Authority of supervisor to adopt by rule—Conditions.
33.12.030	Repealed.
33.12.040	Repealed.
33.12.050	Repealed.
33.12.060	Dealings with directors, officers, agents, or employees or certain public officers or employees prohibited—Exceptions.
33.12.070	Repealed.
33.12.080	Repealed.
33.12.090	Repealed.
33.12.110	Repealed.
33.12.120	Repealed.
33.12.130	Repealed.
33.12.140	Expense and contingent funds.
33.12.150	Contingent fund as reserve—Members' rights to fund limited.
33.12.160	Repealed.

33.12.010 Powers in general. An association shall have the same capacity to act as possessed by natural persons. An association has authority to perform such acts as are necessary or proper to accomplish its purposes.

In addition to any other power an association may have, an association has authority:

- (1) To have and alter a corporate seal;

- (2) To continue as an association for the time limited in its articles of incorporation or, if no such time limit is specified, then perpetually;

- (3) To sue or be sued in its corporate name;

- (4) To acquire, hold, sell, dispose of, pledge, mortgage, or encumber property, as its interests and purposes may require;

- (5) To conduct business in this state and elsewhere as may be permitted by law and, to this end, to comply with any law, regulation, or other requirements incident thereto;

- (6) To acquire capital in the form of deposits, shares, or other accounts for fixed, minimum or indefinite periods of time as are authorized by its bylaws, and may issue such passbooks, statements, time certificates of deposit, or other evidence of accounts;

- (7) To pay interest;

- (8) To charge reasonable service fees for services provided as part of its business;

- (9) To borrow money and to pledge, mortgage, or hypothecate its properties and securities in connection therewith;

- (10) To collect or protest promissory notes or bills of exchange owned or held as collateral by the association;

- (11) To let vaults, safes, boxes, or other receptacles for the safekeeping or storage of personal property, subject to the laws and regulations applicable to and with the powers possessed by safe deposit companies; and to act as escrow holder;

- (12) To act as fiscal agent for the United States of America; to purchase, own, vote, or sell stock in, or act as fiscal agent for any federal home loan bank, the federal housing administration, home owners' loan corporation, or other state or federal agency, organized under the authority of the United States or of the state of Washington and authorized to loan to or act as fiscal agent for associations or to insure savings accounts or mortgages; and in the exercise of these powers, to comply with any requirements of law or rules or orders promulgated by such federal or state agency and to execute any contracts and pay any charges in connection therewith;

- (13) To procure insurance of its mortgages and of its accounts from any state or federal corporation or agency authorized to write such insurance and, in the exercise of these powers, to comply with any requirements of law or rules or orders promulgated and to execute any contracts and pay any premiums required in connection therewith;

- (14) To loan money and to sell any of its notes or other evidences of indebtedness, together with the collateral securing the same;

- (15) To make, adopt, and amend bylaws for the management of its property and the conduct of its business;

- (16) To deposit moneys and securities in any other association or any bank or savings bank or other like depository;

- (17) To dissolve and wind up its business;

- (18) To collect or compromise debts due to it and, in so doing, to apply to the indebtedness the accounts of the debtors, and to receive, as collateral or otherwise,

other securities, property or property rights of any kind or nature;

(19) To become a member of, deal with, or make reasonable payments or contribution to any organization to the extent that such organization assists in furthering or facilitating the association's purposes, powers or community responsibilities, and to comply with any reasonable conditions of eligibility;

(20) To sell money orders, travelers checks and similar instruments as agent for any organization empowered to sell such instruments through agents within this state and to receive money for transmission through a federal home loan bank;

(21) To service loans and investments for others;

(22) To sell and to purchase mortgages or other loans, including participating interests therein;

(23) To use abbreviations, words or symbols in connection with any document of any nature and on checks, proxies, notices and other instruments which abbreviations, words, or symbols shall have the same force and legal effect as though the respective words and phrases for which they stand were set forth in full for the purposes of all statutes of the state and all other purposes;

(24) To conduct a trust business under rules adopted by the supervisor pursuant to chapter 34.04 RCW; and

(25) To exercise, by and through its board of directors and duly authorized officers and agents, all such incidental powers as may be necessary to carry on the business of the association.

The powers granted in this section shall not be construed as limiting or enlarging any grant of authority made elsewhere by this title. [1982 c 3 § 22; 1969 c 107 § 3; 1963 c 246 § 2; 1945 c 235 § 29; Rem. Supp. 1945 § 3717-148. Prior: 1939 c 98 §§ 6, 7; 1935 c 171 § 1; 1933 c 183 §§ 47, 48, 55, 59.]

Severability—1982 c 3: See note following RCW 33.04.002.

Safe deposit repository lease agreements ineffective to create joint ownership or transfer property at death: RCW 11.02.090(3).

33.12.012 Powers conferred upon federal savings and loan association as of February 25, 1982. Notwithstanding any other provision of law, in addition to all powers, express or implied, that an association has under this title, an association may exercise any of the powers conferred as of February 25, 1982, upon a federal savings and loan association doing business in this state. [1982 c 3 § 23; 1981 c 87 § 1.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.12.014 Powers conferred upon federal savings and loan association—Reserve or other requirements—Authority of supervisor to adopt by rule—Conditions. Notwithstanding any other provision of law, in addition to all powers, express or implied, that an association has under this title, the supervisor may make reasonable rules authorizing an association to exercise any of the powers conferred at the time of the adoption of the rules upon a federal savings and loan association doing business in this state, or may modify or reduce reserve or other requirements if an association is insured by the

federal savings and loan insurance corporation, if the supervisor finds that the exercise of the power:

(1) Serves the convenience and advantage of depositors and borrowers; and

(2) Maintains the fairness of competition and parity between state-chartered savings and loan associations and federally-chartered savings and loan associations. [1982 c 3 § 24; 1981 c 87 § 2.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

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

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

33.12.060 Dealings with directors, officers, agents, or employees or certain public officers or employees prohibited—Exceptions. (1) An association shall make no loan to or sell to or purchase any real property or securities from any director, officer, agent, or employee of an association or to or from any public officer or public employee whose duties have to do with the supervision, regulation, or insurance of the association or its savings accounts.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Loans secured by the pledge or assignment of the savings account of the borrowing member;

(b) Loans made to directors, officers, agents, or employees of the association upon their property which is occupied principally by such director, officer, agent, or employee as a home, the amount of such loan to be based upon the appraised value of said property as established by two independent appraisers who are not officers, agents, directors, employees, or appraisers of the association;

(c) Loans made to directors, officers, or employees of the association upon their mobile dwelling, which is occupied principally by such director, officer, or employee as a home, the amount of such loan to be based upon the appraised value of the dwelling as established by two independent appraisers who are not directors, officers, employees, or appraisers of the association;

(d) Loans made to directors, officers, or employees of the association for home or property repairs, alterations, improvements, or additions, or home furnishings or appliances, for a residence which is occupied principally by such director, officer, or employee as a home;

(e) Loans made to directors, officers, or employees of the association for the payment of expenses of vocational training or college or university education; nor to

(f) Any other loans made to directors, officers, or employees of the association: *Provided*, That the total value of the loans made or obligations acquired under authority of this section for any one director, officer, or employee shall not exceed such amount as prescribed by the

supervisor under regulations adopted under the administrative procedure act, chapter 34.04 RCW. No loan may be made, credit extended, or obligation acquired unless the board of directors of the association has approved a resolution authorizing the same by a majority vote at a meeting of the board held within sixty days prior to the making or acquisition of the loan or obligation, and the vote and resolution shall be entered in the corporate minutes.

(3) A loan to or a purchase or sale to or from a partnership or corporation fifteen percent of which is owned by any one director, officer, agent, or employee of the association or twenty-five percent of which is owned by any combination of directors, officers, agents, or employees of the association shall be deemed a loan to or a purchase or sale to or from such director, officer, agent, or employee within the meaning of this section except when the transaction occurred without the knowledge or against the protest of such director, officer, agent, or employee of the association. [1982 c 3 § 25; 1979 c 113 § 3; 1953 c 71 § 2; 1947 c 257 § 3; 1945 c 235 § 35; Rem. Supp. 1947 § 3717-154. Prior: 1939 c 98 § 10; 1933 c 183 §§ 51, 53.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: See note following RCW 33.04.020.

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

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

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

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

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

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

33.12.140 Expense and contingent funds. Before any association is authorized to receive deposits or transact any business, its incorporators shall create an expense fund, in such amount as the supervisor may determine, from which the expense of organizing the association and its operating expenses may be paid until such time as its earnings are sufficient to pay its operating expenses, and the incorporators shall enter into an undertaking with the supervisor to make such further contributions to the expense fund as may be necessary to pay its operating expenses until such time as it can pay them from its earnings.

Before any mutual association is authorized to receive deposits or transact any business, its incorporators shall create a contingent fund for the protection of its members against investment losses, in an amount to be determined by the supervisor.

The contingent fund shall consist of payments in cash made by the incorporators as provided in this section and of all sums credited thereto from the earnings of the association as hereinafter required.

Prior to the liquidation of any mutual association the contingent fund shall not be encroached upon in any manner except for losses and for the repayment of contributions made by the incorporators.

No repayment of the contribution of incorporators to the contingent fund shall be made until the net balance credited to the contingent fund from earnings of the association, after such repayment, equals five percent of the amount due members.

The incorporators may receive interest upon the amount of their contributions to the contingent fund at the same rate as is paid, from time to time, to savings members.

The amounts contributed to the contingent fund by the incorporators shall not constitute a liability of the association except as hereinafter provided, and any loss sustained by the association in excess of that portion of the contingent fund created from earnings may be charged against such contributions pro rata. [1982 c 3 § 26; 1945 c 235 § 13; Rem. Supp. 1945 § 3717-132. Prior: 1933 c 183 § 77; 1925 ex.s. c 144 § 7; 1919 c 169 § 8; 1913 c 110 §§ 13, 14; 1903 c 106 §§ 3, 5; 1890 p 56 §§ 6, 15, 31.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.12.150 Contingent fund as reserve—Members' rights to fund limited. The contingent fund shall constitute a reserve for the absorption of losses of a mutual association.

Members do not have, individually or collectively, any right or claim to the contingent fund except upon dissolution of the association. [1982 c 3 § 27; 1981 c 84 § 3; 1963 c 246 § 4; 1961 c 222 § 2; 1945 c 235 § 51; Rem. Supp. 1945 § 3717-170. Prior: 1933 c 183 §§ 63, 67; 1925 ex.s. c 144 § 7; 1919 c 169 § 8; 1913 c 110 §§ 13, 14; 1903 c 116 § 5; 1890 p 56 § 31.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

Chapter 33.16

DIRECTORS, OFFICERS AND EMPLOYEES

Sections	
33.16.020	Directors—Qualifications—Eligibility.
33.16.030	Directors—Prohibited acts.
33.16.040	Removal of director, officer or employee on objection of supervisor—Procedure.
33.16.050	Removal of director for cause—When—Procedure.
33.16.060	Fiduciary relationship of directors and officers.
33.16.070	Repealed.
33.16.080	Officers—Election—Service.
33.16.090	Board meetings—Notice—Quorum.
33.16.100	Repealed.
33.16.110	Repealed.
33.16.120	Statement of assets and liabilities—Reports.
33.16.140	Repealed.

33.16.150 Pensions, retirement plans and other benefits.
 33.16.160 Repealed.

33.16.020 Directors—Qualifications—Eligibility.

The board of directors shall be elected at the annual meeting, unless the bylaws of the association otherwise provide.

A person shall not be a director of an association if the person has been adjudicated bankrupt or has taken the benefit of any assignment for the benefit of creditors or has suffered a judgment recovered against him for a sum of money to remain unsatisfied of record or unsuperseded on appeal for a period of more than three months.

To be eligible to hold the position of director of an association, a person must have savings or stock or a combination thereof in the sum or the aggregate sum of at least one thousand dollars. Such minimum amount shall not be reduced either by withdrawal or by pledge for a loan or in any other manner, so long as he remains a director of the association. [1982 c 3 § 28; 1963 c 246 § 5; 1945 c 235 § 15; Rem. Supp. 1945 § 3717–134. Prior: 1933 c 183 §§ 12, 14; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.16.030 Directors—Prohibited acts. A director of a savings and loan association shall not:

(1) Have any interest, direct or indirect, in the gains or profits of the association, except to receive dividends, or interest upon his contribution to the contingent fund or upon his deposit accounts. However, nothing in this subsection shall prevent an officer from receiving his authorized compensation nor from participating in a benefit program under RCW 33.16.150, nor prevent a director from receiving an authorized director's fee;

Receive and retain, directly or indirectly, for his own use any commission on any loan, or purchase of real property or securities, made by the association;

(2) Become an endorser, surety, or guarantor, or in any manner an obligor, for any loan made by the association;

(3) For himself or as agent, partner, stockholder, or officer of another, directly or indirectly, borrow from the association, except as hereinafter provided. [1982 c 3 § 29; 1945 c 235 § 16; Rem. Supp. 1945 § 3717–135. Prior: 1933 c 183 §§ 21, 62.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.16.040 Removal of director, officer or employee on objection of supervisor—Procedure.

If the supervisor shall notify the board of directors of any association in writing, that he has information that any director, officer, or employee of such association is dishonest, reckless, or incompetent or is failing to perform any duty of his office, the board shall meet and consider such matter forthwith and the supervisor shall have notice of the time and place of such meeting. If the board shall find the supervisor's objection to be well founded, such director, officer, or employee shall be removed immediately.

If the board does not remove the director, officer, or employee against whom the objections have been filed, or if the board fails to meet, consider or act upon the objections within twenty days after receiving the same, the supervisor may forthwith or within twenty days thereafter, remove such individual by complying with the administrative procedure act, chapter 34.04 RCW. If the supervisor feels that the public interest or safety of the association requires the immediate removal of such individual, the supervisor may petition the superior court for a temporary injunction suspending the performance of the individual as a director pending the administrative procedure hearing. [1982 c 3 § 30; 1973 c 130 § 21; 1945 c 235 § 17; Rem. Supp. 1945 § 3717–136. Prior: 1933 c 183 § 18.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.16.050 Removal of director for cause—

When—Procedure. If a director becomes ineligible or if the director's conduct or habits are such as to reflect discredit upon the association or if other good cause exists, the director may be removed from office by an affirmative vote of two-thirds of the members of the board of directors at any regular meeting of the board or at any special meeting called for that purpose. No such vote upon removal of a director shall be taken until the director has been advised of the reasons therefor and has had opportunity to submit to the board of directors a statement relative thereto, either oral or written. If the director affected is present at the meeting, he shall leave the place where the meeting is being held after his statement has been submitted and prior to the vote upon the matter of his removal. [1982 c 3 § 31; 1945 c 235 § 19; Rem. Supp. 1945 § 3717–138. Prior: 1933 c 183 § 17; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.16.060 Fiduciary relationship of directors and officers.

Directors and officers of an association shall be deemed to stand in a fiduciary relation to the association and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary, prudent persons would exercise under similar circumstances in like position. [1982 c 3 § 32; 1945 c 235 § 20; Rem. Supp. 1945 § 3717–139. Prior: 1933 c 183 § 15; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

33.16.080 Officers—Election—Service.

The board of directors of the association shall elect the officers named in the bylaws of the association, which officers shall serve at the pleasure of the board. [1982 c 3 § 33; 1945 c 235 § 22; Rem. Supp. 1945 § 3717–141. Prior: 1939 c 98 § 2; 1933 c 183 §§ 19, 20.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.16.090 Board meetings—Notice—Quorum.

The board of directors of each association shall hold a regular meeting at least once each month, at a time to be designated by it. Special meetings of the board of directors may be held upon notice to each director sufficient to permit his attendance.

At any meeting of the board of directors, a majority of the members shall constitute a quorum for the transaction of business.

The president of the association or chairman of the board or any three members of the board may call a meeting of the board by giving notice to all of the directors. [1982 c 3 § 34; 1945 c 235 § 23; Rem. Supp. 1945 § 3717–142. Prior: 1933 c 183 § 19.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

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

33.16.120 Statement of assets and liabilities—Reports. The board of directors shall cause to be prepared, from the books of the association, a statement of assets and of liabilities, at the end of the association's fiscal year.

The board shall also cause to be prepared, certified, and filed with the supervisor, upon blanks to be furnished by the supervisor, such reports and statements as the supervisor, from time to time, may require. [1982 c 3 § 35; 1973 c 130 § 23; 1945 c 235 § 27; Rem. Supp. 1945 § 3717–146. Prior: 1933 c 183 § 79; 1919 c 169 §§ 11, 12; 1913 c 110 §§ 18, 19; 1890 p 56 §§ 18, 36.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

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

33.16.150 Pensions, retirement plans and other benefits. An association may provide for pensions, retirement plans and other benefits for its officers and employees, and may contribute to the cost thereof in accordance with the plan adopted by its board of directors. Any officer or employee of the association who is also a director or any director who has been an officer or employee is eligible for and may receive such pension, retirement plan, or other benefit to the extent that the officer or employee regularly participates or the director while an officer or employee regularly participated in the operation of the association. [1982 c 3 § 36; 1945 c 235 § 38; Rem. Supp. 1945 § 3717–157.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

Chapter 33.20

MEMBERS—SAVINGS

Sections

33.20.010	Mutual association member's interest in assets—Meetings—Voting—Proxies.
33.20.020	Repealed.
33.20.040	Minors as members.
33.20.060	State, political subdivisions, fiduciaries as depositors.
33.20.090	Repealed.
33.20.100	Repealed.
33.20.110	Repealed.
33.20.120	Repealed.
33.20.125	Record of member deposits—As in lieu of passbook, statement, or certificate of deposit.
33.20.150	Deposits with interest to be repaid on request—Postponement of withdrawals—Procedure.
33.20.180	Classification of depositors—Regulation of earnings according to class.
33.20.190	Withdrawal by association draft or negotiable or transferable order or authorization—Interest eligibility.

33.20.010 Mutual association member's interest in assets—Meetings—Voting—Proxies. Each member having deposits in a mutual association shall have a proportionate proprietary interest in its assets or net earnings subordinate to the claims of its other creditors. At any meeting of the members of a mutual association, each member shall be entitled to at least one vote. A mutual association, by its bylaws, may provide that each member shall be entitled to one vote for each one hundred dollars of the member's deposit account. At any meeting of the members, voting may be in person or by proxy. Proxies shall be in writing and signed by the member and, when filed with the secretary, shall continue in force until revoked or superseded by subsequent proxies. Written notice of the time and place of the holding of special meetings (other than the regular annual meeting) shall be mailed to each member at his last known address not more than thirty days, nor less than ten days prior to the meeting. The regular annual meeting of the mutual association shall be announced by publication of a notice thereof in a newspaper published in the city or town, or, if the association is not in a city or town, in the county in which the association is located at least ten days prior to the date of such meeting, or by ten days' written notice to the members mailed to the last known address of each member. [1982 c 3 § 37; 1969 c 107 § 4; 1949 c 20 § 2; 1945 c 235 § 12; Rem. Supp. 1949 § 3717–131. Prior: 1933 c 183 §§ 13, 39; 1919 c 169 § 4; 1913 c 110 § 5; 1903 c 116 § 6; 1890 p 56 § 39.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

33.20.040 Minors as members. Subject to chapter 30.22 RCW, minors may become depositors or members of an association and all contracts entered into between a minor and an association, with respect to his membership or his deposits therein, shall be valid and enforceable, and a minor may not disaffirm, because of his

minority, any such membership or agreement in connection therewith. [1982 c 3 § 38; 1981 c 192 § 30; 1945 c 235 § 41; Rem. Supp. 1945 § 3717-160. Prior: 1933 c 183 §§ 24, 40; 1919 c 169 § 5; 1913 c 110 § 6.]

Reviser's note: 1982 c 3 § 38 amended RCW 33.20.040 as amended by 1981 c 192 § 30, this latter amendment effective July 1, 1982 (see RCW 30.22.900); 1982 c 3 was effective February 25, 1982 (see effective date, 1982 c 3 session laws).

Severability—1982 c 3: See note following RCW 33.04.002.

Effective date—1981 c 192: See RCW 30.22.900.

33.20.060 State, political subdivisions, fiduciaries as depositors. The state of Washington and the political subdivisions thereof, and trustees, administrators, executors, guardians, and other fiduciaries, either individual or corporate, in their fiduciary capacity, may be depositors in associations. [1982 c 3 § 39; 1945 c 235 § 44; Rem. Supp. 1945 § 3717-163.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

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

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

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

33.20.125 Record of member deposits—As in lieu of passbook, statement, or certificate of deposit. An association shall maintain a record of all deposits received from its members. The issuance of a passbook, statement, or certificate may be omitted for any account if a record thereof is maintained in lieu of a passbook, statement, or certificate of deposit, on which shall be entered deposits, withdrawals, and interest credited. [1982 c 3 § 40.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.20.150 Deposits with interest to be repaid on request—Postponement of withdrawals—Procedure. The deposits paid into an association, together with any interest credited thereon, shall be repaid to the depositors thereof respectively, or to their legal representatives, upon request.

If, in the judgment of the board, circumstances warrant deferment of the payment of withdrawals from savings accounts to a later date, thereafter withdrawals shall be paid proportionately, on a percentage basis, to all depositors requesting withdrawal until full withdrawal requests are paid to all depositors. A board resolution of deferment shall not affect the payments of withdrawals from federal tax and loan accounts.

The board shall, however, have the right in its discretion, where need is shown, to pay not exceeding one hundred dollars to any account holder in one month.

If, upon examination, the supervisor finds that further postponement of withdrawals is unwarranted, the supervisor may order the association to resume full payment of withdrawals and cancel all written withdrawal requests. Such order shall be in writing.

The association's failure, during a period of postponement, to pay withdrawal requests shall not authorize the supervisor to take charge of or liquidate the association. [1982 c 3 § 41; 1979 c 113 § 5; 1953 c 71 § 5; 1945 c 235 § 54; Rem. Supp. 1945 § 3717-173. Prior: 1939 c 98 § 5; 1933 c 183 §§ 29, 30, 31, 32, 33, 34, 37; 1919 c 169 § 10; 1913 c 110 § 16; 1890 p 56 § 27.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: See note following RCW 33.04.020.

33.20.180 Classification of depositors—Regulation of earnings according to class. An association may classify its depositors according to the character, amount, frequency or duration of their dealings with the association and may regulate the earnings in such manner that each depositor receives the same rate of interest as all others of the depositor's class. [1982 c 3 § 42; 1969 c 107 § 9.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.20.190 Withdrawal by association draft or negotiable or transferable order or authorization—Interest eligibility. An association may, on instruction from a depositor, effect withdrawals from the depositor's account by the association's drafts payable to parties and on terms as so instructed. An association may allow a depositor to effect withdrawals or transfers from the depositor's account upon negotiable or transferable order or authorization to the association. To the extent of the subjection of accounts to such withdrawal instructions or orders, such accounts may be specifically classified under RCW 33.20.180 and ineligible to receive interest or eligible only for limited interest. [1982 c 3 § 43; 1980 c 54 § 1; 1969 c 107 § 10.]

Severability—1982 c 3: See note following RCW 33.04.002.

Contingent effective date—1980 c 54: "The provisions of this 1980 amendatory act shall take effect on the effective date of a law enacted by the United States Congress enabling depository institutions in the state of Washington to allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties." [1980 c 54 § 3.] Section 303 of the Consumer Checking Account Equity Act of 1980, 94 Stat. 145, authorizes the above-mentioned withdrawals. Section 303 has an effective date of December 31, 1980.

Chapter 33.24

LOANS AND INVESTMENTS

Sections

33.24.005	"Mortgage" includes deed of trust and real estate contract.
33.24.007	"Real property" defined.
33.24.010	Loans to any one person—Limitation.
33.24.015	Loans generally—Limitation.
33.24.095	Repealed.
33.24.100	Loans or other obligations secured by real property.
33.24.110	Repealed.

- 33.24.115 Forming, incorporating with, or investing in other entities—Limitation.
- 33.24.120 Repealed.
- 33.24.130 Repealed.
- 33.24.135 Repealed.
- 33.24.140 Repealed.
- 33.24.145 Repealed.
- 33.24.150 Repealed.
- 33.24.160 Investment in office equipment and real property interests used in doing business.
- 33.24.170 Repealed.
- 33.24.180 Repealed.
- 33.24.230 Repealed.
- 33.24.240 Repealed.
- 33.24.250 Repealed.
- 33.24.260 Repealed.
- 33.24.280 Repealed.
- 33.24.290 Repealed.
- 33.24.295 Loans for nonbusiness family purposes—Limitation.
- 33.24.345 Acquisition of control of association—Authorized.
- 33.24.350 Acquisition of control of association—Definitions.
- 33.24.360 Acquisition of control of association—Unlawful, when—Application—Contents—Notice to other associations.
- 33.24.370 Acquisition of control of association—Action or proceeding to prevent—Grounds.
- 33.24.375 Acquisition of control of association—Application to foreign association branches.
- 33.24.380 Acquisition of control of association—Penalty.

33.24.005 "Mortgage" includes deed of trust and real estate contract. The word "mortgage" as used in this title includes deed of trust and real estate contract. [1982 c 3 § 44; 1973 c 130 § 28.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.24.007 "Real property" defined. Unless the context clearly requires otherwise, "real property" means improved or unimproved real estate and includes leasehold interests in improved or unimproved real estate and includes mobile homes and manufactured housing whether temporarily, semipermanently, or permanently attached to land. [1982 c 3 § 49.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.24.010 Loans to any one person—Limitation. An association may invest its funds only as provided in this chapter.

It shall not invest more than two and a half percent of its assets in any loan or obligation to any one person, except with the written approval of the supervisor. [1982 c 3 § 45; 1979 c 113 § 6; 1963 c 246 § 7; 1953 c 71 § 6; 1947 c 257 § 5; 1945 c 235 § 58; Rem. Supp. 1947 § 3717-177. Prior: 1939 c 98 § 11; 1933 c 183 §§ 39, 52, 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 §§ 4, 30.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: See note following RCW 33.04.020.

33.24.015 Loans generally—Limitation. An association may invest not more than twenty percent of its assets in loans on such terms as it deems appropriate. [1982 c 3 § 51.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

33.24.100 Loans or other obligations secured by real property. An association may invest its funds in loans, mortgages, or other obligations secured by real property. [1982 c 3 § 46; 1979 c 113 § 7; 1969 c 107 § 5; 1949 c 20 § 6; 1945 c 235 § 67; Rem. Supp. 1949 § 3717-186. Prior: 1939 c 98 § 11; 1935 c 9 §§ 1, 2, 3; 1933 c 183 §§ 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 § 4.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: See note following RCW 33.04.020.

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

33.24.115 Forming, incorporating with, or investing in other entities—Limitation. An association, alone or in conjunction with other entities, may form, incorporate, or invest in corporations or other entities, whether or not such other corporation or entity is related to the association's business. The aggregate amount of funds invested or used in the formation of corporations or other entities under this section shall not exceed ten percent of the assets of the association. [1982 c 3 § 50.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

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

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

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

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

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

33.24.160 Investment in office equipment and real property interests used in doing business. An association may invest its funds in the acquisition of furniture, fixtures and office equipment convenient and necessary for the carrying on of its business.

An association may invest its funds in real property or leasehold interests therein for use in the transaction of its business. [1982 c 3 § 47; 1945 c 235 § 73; Rem. Supp. 1945 § 3717-192. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

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

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

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

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

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

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

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

33.24.295 Loans for nonbusiness family purposes—Limitation. An association may invest not to exceed twenty percent of its assets in loans for any non-business family purposes. [1982 c 3 § 48; 1979 c 113 § 12; 1973 c 130 § 27.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: See note following RCW 33.04.020.

Severability—1973 c 130: See note following RCW 33.24.350.

33.24.345 Acquisition of control of association—Authorized. A person or other entity, including an association, organized under the laws of this state or authorized to transact business in this state, may acquire any or all of the assets or shares of stock of any association authorized to transact business under this title. [1982 c 3 § 52.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.24.350 Acquisition of control of association—Definitions. Unless the context requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Subsidiary" of a person or other entity means any person or other entity which is controlled by such person or other entity.

(2) "Control" means directly or indirectly or acting in concert with one or more other persons or entities, or through one or more subsidiaries, owning, controlling, or holding with the power to vote twenty-five percent or more of the voting rights of an association.

(3) "Acquiring party" means the person or other entity acquiring control of a savings and loan association. [1982 c 3 § 53; 1973 c 130 § 1.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: "If any provision of this 1973 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." [1973 c 130 § 32.]

33.24.360 Acquisition of control of association—Unlawful, when—Application—Contents—Notice

to other associations. (1) It is unlawful for any acquiring party to acquire control of an association until thirty days after the date of filing with the supervisor an application containing substantially all of the following information and any additional information that the supervisor may prescribe as necessary or appropriate in the public interest or for the protection of deposit account holders, borrowers or stockholders:

(a) The identity, character, and experience of each acquiring party by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each acquiring party involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which such acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition and, if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction and the names of the parties. However, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing the statement so requests, the supervisor shall not disclose the name of the lender to the public;

(e) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the association to sell its assets, to merge it with any company, or to make any other major changes in its business or corporate structure or management;

(f) The identification of any persons employed, retained or to be compensated by the acquiring party, or by any person on his behalf, who makes solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and brief description of the terms of such employment, retainer, or arrangements for compensation;

(g) Copies of all invitations for tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

When an unincorporated company is required to file the statements under (1) (a), (b), and (f) of this section, the supervisor may require that the information be given with respect to each partner of a partnership or limited partnership, by each member of a syndicate or group, and by each person who controls a partner or member. When an incorporated company is required to file the statements under (1) (a), (b), and (f) of this section, the supervisor may require that the information be given for the corporation and for each officer and director of the corporation and for each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation. If any tender offer, request or invitation for tenders or other agreement to acquire control is proposed to be made by means of a registration statement under the federal securities act of 1933 (48 Stat. 74, 15 U.S.C. Sec. 77a), as amended, or in circumstances requiring the

disclosure of similar information under the federal securities exchange act of 1934 (48 Stat. 881; 15 U.S.C. Sec. 77b), as amended, or in an application filed with the federal home loan bank board requiring similar disclosure, such registration statement or application may be filed with the supervisor in lieu of the requirements of this section.

(2) The supervisor shall give notice by mail to all associations doing business within the state of the filing of an application to acquire control of an association. The association shall transmit a check to the supervisor for two hundred dollars when filing the application to cover the expense of notification. Persons interested in protesting the application may contact the supervisor in person or by writing prior to a date which shall be given in the notice. [1982 c 3 § 54; 1979 c 113 § 13; 1973 c 130 § 2.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: See note following RCW 33.04.020.

Severability—1973 c 130: See note following RCW 33.24.350.

33.24.370 Acquisition of control of association—Action or proceeding to prevent—Grounds. The supervisor may within thirty days after the date of filing of the application under RCW 33.24.360, file an action or proceeding in superior court to prevent the pending acquisition of control if the supervisor finds any of the following:

(1) The acquisition would substantially lessen competition or would in any manner be in restraint of trade or would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the state of Washington, unless the supervisor also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served;

(2) The poor financial condition of any acquiring party might jeopardize the financial stability of the association being acquired or might prejudice the interests of the depositors, borrowers, or stockholders of the association or is not in the public interest;

(3) The plan or proposal under which the acquiring party intends to liquidate the association, to sell its assets, or to merge it with any person or company, or to make any other major change in its business or corporate structure or management, is not fair and reasonable to the association's depositors, borrowers, or stockholders or is not in the public interest; or

(4) The competence, experience and integrity of any acquiring party who would control the operation of the association indicates that approval would not be in the interest of the association's depositors, borrowers, or stockholders nor in the public interest. [1982 c 3 § 55; 1973 c 130 § 3.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.24.375 Acquisition of control of association—Application to foreign association branches. RCW

33.24.345, 33.24.350, 33.24.360, and 33.24.370 do not apply to foreign associations doing business in this state, except when an acquiring party intends to acquire only one or more branches of a foreign association which are located in this state. [1982 c 3 § 56.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.24.380 Acquisition of control of association—Penalty.

Reviser's note: The above caption was revised to conform to 1982 amendments to RCW 33.24.350, 33.24.360 and 33.24.370.

Chapter 33.28 FEES AND TAXES

Sections

33.28.020	Fee for examination and supervision costs.
33.28.030	Repealed.
33.28.040	Taxation of associations.

33.28.020 Fee for examination and supervision costs. The supervisor shall collect from each association a fee, the amount of which shall be set by rule, to cover the actual cost of examinations and supervision. [1982 c 3 § 57; 1974 ex.s. c 22 § 1; 1969 c 107 § 6; 1961 c 222 § 4; 1945 c 235 § 77; Rem. Supp. 1945 § 3717–196. Prior: 1933 c 183 § 82; 1919 c 169 § 11; 1913 c 110 § 18.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

33.28.040 Taxation of associations. The fees provided for in this title shall be in lieu of all other corporation fees, licenses, or excises for the privilege of doing business, except for business and occupation taxes imposed pursuant to chapter 82.04 RCW, and except for license fees or taxes imposed by a city or town under RCW 82.14A.010, notwithstanding any other provisions of this section.

Neither an association nor its members shall be taxed upon its deposit accounts as property, nor shall a domestic association be taxed upon its real and tangible personal property at a rate greater than any federal association doing business in this state.

An association is an institution for deposits and neither it nor its property shall be taxed under any law which shall exempt banks or other savings institutions, state or federal, from taxation.

For all purposes of taxation, the assets represented by the contingent fund, guaranty fund, and other reserves (other than reserves for expenses and specific losses) of an association shall be deemed its only permanent capital and, in computing any tax, whether property, income, or excise, appropriate adjustments shall be made to give effect to the nature of such association. [1982 c 3 § 58; 1972 ex.s. c 134 § 4; 1970 ex.s. c 101 § 1; 1945 c 235 § 79; Rem. Supp. 1945 § 3717–198. Prior: 1933 c 183 § 86; 1913 c 110 § 17; 1890 p 56 §§ 35, 38.]

Severability—1982 c 3: See note following RCW 33.04.002.

Effective date—1972 ex.s. c 134: See RCW 82.14A.900.

Severability—1970 ex.s. c 101: "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." [1970 ex.s. c 101 § 5.]

Effective date—1970 ex.s. c 101: "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 March 1, 1970." [1970 ex.s. c 101 § 6.]

City or town license fees or taxes on financial institutions: Chapter 82-.14A RCW.

**Chapter 33.32
FOREIGN ASSOCIATIONS**

Sections

- 33.32.010 Repealed.
- 33.32.020 Examinations and reports.
- 33.32.030 Subject to state regulations and laws.
- 33.32.040 Repealed.
- 33.32.070 Failure to comply with title as disqualifying act.

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

33.32.020 Examinations and reports. Unless prohibited by the laws of the state in which it is incorporated, a foreign association or like corporation authorized to do business in this state which, by the laws of the state in which it is incorporated, is required to be examined or to make reports to officers of such state, after each such examination or on the making of each such report, shall furnish to the supervisor a copy of such examination or report, certified by the officer of the state making such examination or receiving the report. [1982 c 3 § 59; 1945 c 235 § 81; Rem. Supp. 1945 § 3717–200. Prior: 1933 c 183 § 87; 1913 c 110 § 21; 1890 p 56 §§ 14, 37.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.32.030 Subject to state regulations and laws. Except as to those matters relating strictly to its internal management which are governed by provisions of the law of the state of its incorporation inconsistent with this title, a foreign association or like corporation authorized to transact business in this state shall conduct its business in conformance with the provisions of this title and all requirements of the supervisor.

All agreements made by any foreign association or like corporation doing business in this state with any resident of this state shall be deemed and construed to be made within this state. [1982 c 3 § 60; 1945 c 235 § 82; Rem. Supp. 1945 § 3717–201. Prior: 1933 c 183 § 87; 1913 c 110 § 21; 1890 p 56 §§ 9, 14.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

33.32.070 Failure to comply with title as disqualifying act. Any foreign savings and loan association or like corporation doing business in this state which fails to comply with any provision of this title as required shall

not thereafter transact any business within this state. [1982 c 3 § 61; 1945 c 235 § 86; Rem. Supp. 1945 § 3717–205. Prior: 1933 c 183 § 89; 1913 c 110 § 21; 1890 p 56 §§ 14, 20.]

Severability—1982 c 3: See note following RCW 33.04.002.

**Chapter 33.36
PROHIBITED ACTS—PENALTIES**

Sections

- 33.36.030 Preference in case of insolvency.
- 33.36.040 Falsification of books—Exhibiting false document—Making false statement of assets or liabilities.
- 33.36.050 False statement affecting financial standing.
- 33.36.060 Suppressing, secreting, or destroying evidence or records.

33.36.030 Preference in case of insolvency. Every transfer of its property and assets by any association in this state, made in contemplation of insolvency, or after it becomes insolvent, with a view to the preference of one creditor or member over another, or to prevent the proper distribution of its property and assets among its creditors and members, shall be void.

Every director, officer, agent, or employee making such transfer or assisting therein is guilty of a class C felony as provided in chapter 9A.20 RCW. [1982 c 3 § 62; 1945 c 235 § 89; Rem. Supp. 1945 § 3717–208.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.36.040 Falsification of books—Exhibiting false document—Making false statement of assets or liabilities. Every person who subscribes to or knowingly makes or causes to be made any false statement or false entry in the books of any association, or knowingly subscribes to or exhibits any false or fictitious security, document, or paper, with intent to deceive any person authorized to examine into the affairs of any association, or knowingly makes or publishes any false statement of the amount of the assets or liabilities of the association, is guilty of a class C felony as provided in chapter 9A.20 RCW. [1982 c 3 § 63; 1945 c 235 § 90; Rem. Supp. 1945 § 3717–209. Prior: 1933 c 183 § 101; 1919 c 169 §§ 12, 18; 1913 c 110 § 19.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.36.050 False statement affecting financial standing. Any person who wilfully instigates, makes, circulates, or transmits to another or others any statement which the person knows to be false concerning the financial condition or affecting the financial standing of any association doing business in this state, or who wilfully counsels, aids, procures or induces another to start, transmit, or circulate any such statement which the person knows to be false, is guilty of a gross misdemeanor. [1982 c 3 § 64; 1945 c 235 § 92; Rem. Supp. 1945 § 3717–211. Prior: 1933 c 183 § 110.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.36.060 Suppressing, secreting, or destroying evidence or records. Any person who, for the purpose of concealing any material fact, suppresses any evidence or abstract, removes, mutilates, destroys, or secretes any book, paper or record of an association, or of the supervisor, or of anyone connected with the association or the office of the supervisor, is guilty of a class C felony as provided in chapter 9A.20 RCW. [1982 c 3 § 65; 1945 c 235 § 91; Rem. Supp. 1945 § 3717–210. Prior: 1933 c 183 § 106; 1919 c 169 § 19.]

Severability—1982 c 3: See note following RCW 33.04.002.

Chapter 33.40

INSOLVENCY, LIQUIDATION, MERGER

Sections

33.40.020	Supervisor may take possession of domestic association on notice for delinquency.
33.40.040	Procedure on taking possession.
33.40.050	Involuntary liquidation—Procedure—Federal insurance corporation as liquidator.
33.40.070	Liquidator's powers.
33.40.075	Investment of liquidation funds—Use of income.
33.40.090	Repealed.
33.40.100	Repealed.
33.40.110	Voluntary liquidation—Disposition of unclaimed dividends and records.
33.40.120	Removal of liquidator—Appeal.
33.40.130	Payment of deposits accepted during economic emergency, preference.

33.40.020 Supervisor may take possession of domestic association on notice for delinquency. Whenever it appears to the supervisor that any domestic association is in an unsound condition or is conducting its business in an unsafe manner or is refusing to submit its books, papers, or concerns to lawful inspection, or that any director or officer thereof refuses to submit to examination on oath touching its concerns and affairs or that it has failed to carry out any authorized order or direction of the supervisor, the supervisor may give notice to the association so offending or delinquent or whose director or officer is thus offending or delinquent to correct such offense or delinquency and, if such association or such director or officer fails to correct the condition, offense, or delinquency within a reasonable time, as determined by the supervisor, the supervisor may take possession of the association. [1982 c 3 § 66; 1945 c 235 § 103; Rem. Supp. 1945 § 3717–222. Prior: 1933 c 183 §§ 68, 71.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.40.040 Procedure on taking possession. Upon the supervisor taking possession of any domestic association, the supervisor shall proceed to liquidate the association unless, in the supervisor's discretion, the supervisor shall determine to call a meeting of the members to consider either a proportionate charge-off against the deposit accounts to permit the association thereafter to continue in business, or whether the association should proceed to voluntary liquidation under the management of its board of directors. In such event, if the supervisor approves the

decision of a majority in amount of the members present and voting, the supervisor shall order such action to be taken.

During any period of voluntary liquidation, the supervisor may take possession of the association and its assets and complete the liquidation whenever, in the supervisor's discretion, this seems advisable. [1982 c 3 § 67; 1945 c 235 § 105; Rem. Supp. 1945 § 3717–224. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.40.050 Involuntary liquidation—Procedure—Federal insurance corporation as liquidator. Whenever the supervisor determines to liquidate the affairs of a domestic association, the supervisor shall cause the attorney general to present to the superior court of the county in which the association has its principal place of business a written petition setting forth the date of the taking of possession, the reasons therefor, and other material facts concerning the affairs of the association and, if the court determines that the association should be liquidated, it shall appoint the supervisor, or other responsible person as recommended by the supervisor, as the liquidator of the association and fix and require a bond to be given by the liquidator conditioned for the faithful performance of the duties as such liquidator, but if the association has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, the court upon the request of the supervisor may tender to the federal savings and loan insurance corporation the appointment as liquidator.

Upon the filing with and approval by the court of the bond, the supervisor or other person appointed shall enter upon the duties as liquidator of the affairs of the association, and, under the direction of the court, shall administer and liquidate the assets thereof and apply the same to the payment of the expenses of liquidation and the debts of the association, and distribute the remainder to the deposit accounts proportionately.

If the court tenders the appointment as liquidator to the federal savings and loan insurance corporation, and if the insurance corporation accepts the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of an association, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of Title IV of the National Housing Act, as now or hereafter amended. In any liquidation proceeding in which the insurance corporation is the liquidator, it may proceed to liquidate without being subject to the control of the court and without bond. [1982 c 3 § 68; 1973 c 130 § 29; 1945 c 235 § 106; Rem. Supp. 1945 § 3717–225. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 73, 74, 76, 77, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.40.070 Liquidator's powers. The liquidator, upon the approval of the court, may sell, discount, or compromise debts of the association and claims against its debtors. The liquidator, with the approval of the court, may lease, operate, repair, exchange, or sell, either for cash or upon terms, the real and personal property of the association.

The liquidator, with the approval of the court, when funds are available, may pay savings members whose balances amount to not more than five dollars, the full amount of the balances.

Checks issued or payments held by the liquidator which remain undelivered for six months following the final liquidation dividend shall be deposited with the supervisor, after which the liquidator shall be discharged by the court. During ten years thereafter, the supervisor shall deliver the checks or payments, or the supervisor's own checks in lieu thereof, to the payee, or his legal representative, upon receipt of satisfactory evidence of the payee's right thereto. After the ten years, the supervisor shall cancel all such checks or payments remaining in the supervisor's possession and issue a check against the account for the amount thereof, payable to the state treasurer, and deliver it to the state treasurer. Such payment shall escheat to the state, without further legal proceedings. [1982 c 3 § 69; 1953 c 71 § 10; 1945 c 235 § 108; Rem. Supp. 1945 § 3717-227. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 73, 74, 78.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.40.075 Investment of liquidation funds—Use of income. All funds received by the supervisor from liquidations may be invested by the supervisor. The earnings from the moneys so held may be applied toward defraying the expenses incurred in the liquidations. [1982 c 3 § 70; 1951 c 105 § 1.]

Severability—1982 c 3: See note following RCW 33.04.002.

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

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

33.40.110 Voluntary liquidation—Disposition of unclaimed dividends and records. In a voluntary liquidation of a domestic association, checks issued in the liquidation or funds representing liquidating dividends or otherwise which remain undelivered for six months following the final liquidating dividend, shall be deposited with the supervisor, together with any files, records, documents, books of account, or other papers of the association. The supervisor, at any time after one year from delivery, may destroy any of such files, records, documents, books of account, or other papers which appear to the supervisor to be obsolete or unnecessary for future reference. During ten years thereafter, the supervisor shall deliver such checks, or the supervisor's own checks in lieu thereof, or portions of such funds to the payee, or the payee's legal representative, upon receipt

of satisfactory evidence of the payee's right thereto. After the ten years, the supervisor shall cancel all such checks remaining in the supervisor's possession and issue a check payable to the state treasurer for the amount thereof together with any other liquidating funds, and deliver them to the state treasurer. Such payment shall escheat to the state without further legal proceedings. [1982 c 3 § 71; 1953 c 71 § 11; 1945 c 235 § 112; Rem. Supp. 1945 § 3717-231.]

Severability—1982 c 3: See note following RCW 33.04.002.
Uniform disposition of unclaimed property act: Chapter 63.28 RCW.

33.40.120 Removal of liquidator—Appeal. The court, upon notice and hearing, may remove the liquidator for cause. From such order of removal the liquidator may appeal to the supreme court or the court of appeals by giving notice of appeal and posting bond for costs as in other appeals.

During the pendency of any appeal, the director of general administration shall act as liquidator of the association, without giving any additional bond for the performance of the duties as such liquidator.

If such order of removal shall be affirmed, the director of general administration shall name another liquidator for the association, which nominee, upon qualifying as required for receivers generally, shall succeed to the position of liquidator of the association. [1982 c 3 § 72; 1971 c 81 § 86; 1945 c 235 § 113; Rem. Supp. 1945 § 3717-232.]

Rules of court: *Appeal procedures superseded by RAP 2.1, 2.2, 18.22.*
Severability—1982 c 3: See note following RCW 33.04.002.

33.40.130 Payment of deposits accepted during economic emergency, preference. Savings deposits received by an association, during a period or periods of postponement of payment of withdrawals or of acute business depression, panic or economic emergency under authorization or declaration of the supervisor as hereinbefore provided, shall be repaid to the depositors paying in such savings before any liquidation dividends shall be declared or paid if, during such period or periods or at the expiration thereof, the supervisor takes charge of the association for liquidation, as provided in this title. [1982 c 3 § 73; 1945 c 235 § 100; Rem. Supp. 1945 § 3717-219.]

Severability—1982 c 3: See note following RCW 33.04.002.

Chapter 33.43

CONVERSION TO AND FROM FEDERAL ASSOCIATION

Sections	
33.43.010	Conversion of domestic association to federal association.

33.43.010 Conversion of domestic association to federal association. Any domestic association may convert itself into a federal mutual or stock savings and loan association. Any such conversion shall be effected by the vote of a majority in amount of the members present, in

person or by proxy, at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given the supervisor at least thirty days prior to the meeting and to the members pursuant to the provisions contained in RCW 33.20.010.

If such conversion be authorized by the members at the meeting, the directors of the association are authorized and shall effect such action, and the officers of the association shall execute all proper conveyances, documents, and other papers necessary or proper thereunto.

If conversion be authorized, a copy of the minutes of the meeting shall be filed forthwith with the supervisor.

Upon consummation of such conversion, the successor federal savings and loan association shall succeed to all right, title, and interest of the domestic association in and to its assets, and to its liabilities to the creditors and members of the association. Upon such conversion, after the execution and delivery of all instruments of transfer, conveyance and assignment, the domestic association shall be deemed dissolved. [1982 c 3 § 74; 1949 c 20 § 10; 1945 c 235 § 116; Rem. Supp. 1949 § 3717-235. Prior: 1933 ex.s. c 15 §§ 1 through 6. Formerly RCW 33.44.100.]

Severability—1982 c 3: See note following RCW 33.04.002.

Chapter 33.44

CONVERSION TO MUTUAL SAVINGS BANK

Sections

33.44.010	Repealed.
33.44.020	Conversion to a savings bank or commercial bank— Procedure.
33.44.080	Depositor's interest upon conversion.
33.44.090	Transfer of securities upon conversion.
33.44.125	Waiver of chapter requirements.
33.44.130	Rules implementing chapter—Standard.

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

33.44.020 Conversion to a savings bank or commercial bank—Procedure. Any association organized under the laws of this state, or under the laws of the United States, may, if it has obtained the approval, required by law or regulation, of any federal agencies, including the federal home loan bank board and the federal savings and loan insurance corporation, be converted into a savings bank or commercial bank in the following manner:

(1) The board of directors of such association shall pass a resolution declaring its intention to convert the association into a savings bank or commercial bank and shall apply to the supervisor of banking for leave to submit to the members of the association the question whether the association shall be converted into a savings bank or a commercial bank. A duplicate of the application to the supervisor of banking shall be filed with the supervisor of savings and loan associations, except that no such filing shall be required in the case of an association organized under the laws of the United States. The

application shall include a proposal which sets forth the method by and extent to which membership or stockholder interests, as the case may be, in the association are to be converted into membership or stockholder interests, as the case may be, in the savings bank or commercial bank, and the proposal shall allow for any member or stockholder to withdraw the value of his interest at any time within sixty days of the completion of the conversion. The proposal shall be subject to the approval of the supervisor of banking and shall conform to all applicable regulations of the federal home loan bank board, the federal savings and loan insurance corporation, the federal deposit insurance corporation, or other federal regulatory agency.

(2) Thereupon the supervisor of banking shall make the same investigation and determine the same questions as would be required by law to make and determine in case of the submission to the supervisor of banking of a certificate of incorporation of a proposed new savings bank or commercial bank, and the supervisor of banking shall also determine after conference with the supervisor of savings and loan associations whether by the proposed conversion the business needs and conveniences of the members of the association would be served with facility and safety, except that no such conference shall be pertinent to such investigation or determination in the case of an association organized under the laws of the United States. After the supervisor of banking determines whether it is expedient and desirable to permit the proposed conversion, the supervisor of banking shall, within sixty days after the filing of the application, endorse thereon over the official signature of the supervisor of banking the word "granted" or the word "refused", with the date of such endorsement and shall immediately notify the secretary of such association of his decision. If an application to convert to a mutual savings bank is granted, the supervisor of banking shall require the applicants to enter into such an agreement or undertaking with the supervisor of banking as trustee for the depositors with the mutual savings bank to make such contributions in cash to the expense fund of the mutual savings bank as in the supervisor's judgment will be necessary then and from time to time thereafter to pay the operating expenses of the mutual savings bank if its earnings should not be sufficient to pay the same in addition to the payment of such dividends as may be declared and credited to depositors from its earnings.

If the application is denied by the supervisor of banking, the association, acting by a two-thirds majority of its board of directors, may, within thirty days after receiving the notice of the denial, appeal to the superior court in the manner prescribed in RCW 34.04.130.

(3) If the application is granted by the supervisor of banking or by the court, as the case may be, the board of directors of the association shall, within sixty days thereafter, submit the question of the proposed conversion to the members of the association at a special meeting called for that purpose. Notice of the meeting shall state the time, place and purpose of the meeting, and that the only question to be voted upon will be, "shall the (naming the association) be converted into a

savings bank or commercial bank under the laws of the state of Washington?" The vote on the question shall be by ballot. Any member may vote by proxy or may transmit the member's ballot by mail if the bylaws provide a method for so doing. If two-thirds or more in number of the members voting on the question vote affirmatively, then the board of directors shall have power, and it shall be its duty, to proceed to convert such association into a savings bank or commercial bank; otherwise, the proposed conversion shall be abandoned and shall not be again submitted to the members within three years from the date of the meeting.

(4) If authority for the proposed conversion has been approved by the members as required by this section, the directors shall, within thirty days thereafter, subscribe and acknowledge and file with the supervisor of banking in triplicate a certificate of reincorporation, stating:

(a) The name by which the converted corporation is to be known.

(b) The place where the bank is to be located and its business transacted, naming the city or town and county, which city or town shall be the same as that where the principal place of business of the corporation has theretofore been located.

(c) The name, occupation, residence and post office address of each signer of the certificate.

(d) The amount of the assets of the corporation, the amount of its liabilities and the amount of its contingent, reserve, expense, and guaranty fund, as applicable, as of the first day of the then calendar month.

(e) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a trustee or director of the bank, and is free from all the disqualifications specified in the laws applicable to savings banks or commercial banks.

(f) Such other items as the supervisor of banking may require.

(5) Upon the filing of the certificate in triplicate, the supervisor of banking shall, within thirty days thereafter, if satisfied that all the provisions of this chapter have been complied with, issue in triplicate an authorization certificate stating that the corporation has complied with all the requirements of law, and that it has authority to transact at the place designated in its certificate of incorporation the business of a savings bank or commercial bank. One of the supervisor's certificates of authorization shall be attached to each of the certificates of reincorporation, and one set of these shall be filed and retained by the supervisor of banking, one set shall be filed in the office of the secretary of state, and one set shall be transmitted to the bank for its files. Upon the receipt from the corporation of the same fees as are required for filing and recording other incorporation certificates or articles, the secretary of state shall file the certificates and record the same; whereupon the conversion of the association shall be deemed complete, and the signers of said reincorporation certificate and their successors shall thereupon become and be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to savings banks or commercial banks, as the case may

be. The time of existence of the corporation shall be perpetual unless provided otherwise in the articles of incorporation of the association or unless sooner terminated pursuant to law. [1982 c 3 § 75; 1981 c 302 § 34; 1979 ex.s. c 57 § 7; 1975 1st ex.s. c 111 § 1; 1927 c 177 § 1; 1917 c 154 § 1; RRS §§ 3749 through 3754. Formerly RCW 33.44.020 through 33.44.070.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1981 c 302: See note following RCW 19.76.100.

33.44.080 Depositor's interest upon conversion. Upon the conversion of any association into a savings bank or commercial bank, every person who was a depositor of the association at the time of the conversion shall become and be deemed to be a depositor of the bank in a sum equal to the value of the deposit of the depositor as of the day on which the conversion was consummated. [1982 c 3 § 76; 1927 c 177 § 2; 1917 c 154 § 2; RRS § 3755.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.44.090 Transfer of securities upon conversion. All mortgages, notes and other securities of any association that has been converted into a savings bank or commercial bank, shall on request of the bank, be delivered to it by the supervisor of savings and loan associations or under the supervisor's direction by any depository having possession thereof. Every such bank shall, as soon as practicable and within such time and by such methods as the supervisor of banking may direct, cause its organization, its securities and investments, the character of its business and its methods of transacting the same to conform to the laws applicable to savings banks or commercial banks, as applicable. [1982 c 3 § 77; 1927 c 177 § 3; 1917 c 154 § 3; RRS § 3756.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.44.125 Waiver of chapter requirements. If, in the opinion of the supervisor of savings and loans and the supervisor of banking, it is necessary for any of the requirements of this chapter to be waived in order to permit an association which is in danger of failing to convert its charter to that of a commercial bank or a savings bank so that the association may be acquired by a commercial bank or a savings bank or a bank holding company, then the supervisor of savings and loans and the supervisor of banking may waive any such requirement. [1982 c 3 § 78.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.44.130 Rules implementing chapter—Standard. The supervisor of savings and loan associations and the supervisor of banking shall adopt such rules under the administrative procedure act, chapter 34.04 RCW, as are necessary to implement this chapter in a manner which protects the relative interests of members, depositors, borrowers, stockholders, and creditors. [1982 c 3 § 79.]

Severability—1982 c 3: See note following RCW 33.04.002.

Chapter 33.46

CONVERSION OF SAVINGS BANK OR
COMMERCIAL BANK TO ASSOCIATION

(Formerly: Conversion of mutual savings bank to building and loan or savings and loan association)

Sections

33.46.010	Definitions.
33.46.020	Conversion of bank to association—Procedure.
33.46.030	Cash contributions to expense fund if becoming domestic mutual association.
33.46.040	Appeal from denial of application.
33.46.050	Certificate of reincorporation—Required—Filing—Contents.
33.46.060	Issuance of authorization certificate—Filing—Completion of conversion—Effect.
33.46.070	Depositor's interest upon conversion.
33.46.080	Transfer of securities—Conformance to state association laws, when.
33.46.100	Initial meeting of shareholders of domestic association—Notice—Proxy voting.
33.46.110	Conversion to federal association—Procedure.
33.46.130	Rules implementing chapter—Standard.

33.46.010 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Association" means any association organized under the laws of this state or the laws of the United States of America;

(2) "Director" means a member of the board of directors of an association, savings bank, or commercial bank, as applicable;

(3) "Bank" means a savings bank or commercial bank organized under the laws of this state; and

(4) "Trustee" means a member of the managing board of a mutual savings bank. [1982 c 3 § 80; 1975 1st ex.s. c 83 § 1.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.020 Conversion of bank to association—Procedure. Any bank may be converted into an association in the following manner:

(1) The trustees or directors of the bank shall pass, by at least a two-thirds favorable vote of all trustees or directors, a resolution declaring its intention to convert the bank into an association, specifying in such resolution the type of association and whether the association is to be organized under the laws of this state, or is to be organized under the laws of the United States of America. If the association is to be a state association the bank shall apply to the supervisor of savings and loan associations for authority to convert into an association. The application shall include a proposal which sets forth the method by and extent to which membership or stockholder interests, as the case may be, in the bank are to be converted into membership or shareholder interest, as the case may be, in the association, and the proposal shall allow for any member or stockholder to withdraw the value of his interest at any time within sixty days of the completion of the conversion. The proposal is subject to the approval of the supervisor of savings and loans and shall conform to all applicable regulations of the federal deposit insurance corporation, the federal home

loan bank board, the federal savings and loan insurance corporation, or other federal regulatory agency.

(2) A duplicate of the application made to the supervisor of savings and loan associations, or such application as may be filed with the federal home loan bank board or other federal agency, shall be filed with the supervisor of banking.

(3) The supervisor of savings and loan associations shall, in the case of an application to convert into a state association, make the same investigation and determine the same questions as he would be required by law to make in determining the case of submission to him of articles of incorporation of a proposed new state association, and shall also determine, after conference with the supervisor of banking, whether the proposed conversion would serve the needs and conveniences of the depositors of the bank.

(4) The supervisor of savings and loan associations shall grant or deny the application within sixty days of its date of filing and shall immediately notify the secretary of the bank of the decision. [1982 c 3 § 81; 1975 1st ex.s. c 83 § 2.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.030 Cash contributions to expense fund if becoming domestic mutual association. If the application to become a domestic mutual association is granted, the supervisor of savings and loan associations shall require the applicant to enter into an agreement or undertaking with the supervisor, as trustee for the members of the association, to make such cash contributions to an expense fund of the mutual association as in the supervisor's judgment will be necessary then and from time to time thereafter to pay the operating expenses of the association if its earnings should not be sufficient to pay the same in addition to the payment of such dividends as may be declared and credited to members from its earnings. [1982 c 3 § 82; 1975 1st ex.s. c 83 § 3.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.040 Appeal from denial of application. If the application is denied by the supervisor of savings and loan associations, the bank, acting by a two-thirds majority of its trustees or directors, may, within thirty days after receiving notice of such denial, appeal to the superior court of Thurston county pursuant to the provisions of the administrative procedure act, chapter 34.04 RCW. [1982 c 3 § 83; 1975 1st ex.s. c 83 § 4.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.050 Certificate of reincorporation—Required—Filing—Contents. If the application is granted by the supervisor of savings and loan associations, or by the court, the trustees or directors of the bank shall, within thirty days thereafter, subscribe, acknowledge, and file with the supervisor of savings and loan associations, in triplicate, a certificate of reincorporation stating:

(1) The name by which the association is to be known;

(2) The place where the association is to be located and its business transacted, naming the city or town and the county, which city or town shall be the same as that where the principal place of business of the bank has theretofore been located;

(3) The name, occupation, residence, and post office address of each signer of the certificate;

(4) The amount of the assets of the association, the amount of its liabilities, and the amount of its contingent, expense, or guaranty fund, as applicable, as of the first day of the calendar month during which the certificate is filed; and

(5) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a director of the association, and is free from all the disqualifications specified in the laws applicable to savings and loan associations. [1982 c 3 § 84; 1981 c 302 § 35; 1975 1st ex.s. c 83 § 5.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1981 c 302: See note following RCW 19.76.100.

33.46.060 Issuance of authorization certificate—**Filing**—**Completion of conversion**—**Effect**. Upon filing the certificate in triplicate as provided in RCW 33.46.050, the supervisor of savings and loan associations shall, within thirty days thereafter, if satisfied that all the provisions of this chapter have been complied with, issue in triplicate an authorization certificate stating that the association has complied with all of the requirements of law, and that it has authority to transact, at the place or places designated in its certificate, the business of an association. The supervisor of savings and loan associations shall retain one set of the triplicate originals of the certificate of reincorporation and of the certificate of authorization and shall transmit the other two sets to the association, which shall retain one set, and file one set with the secretary of state, paying the required fees. Upon such filings being made, the conversion of the bank to the association shall be deemed complete and consummated, and the association shall thereupon be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to state associations, and the time of existence of such association shall be perpetual, unless sooner terminated. [1982 c 3 § 85; 1981 c 302 § 36; 1975 1st ex.s. c 83 § 6.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1981 c 302: See note following RCW 19.76.100.

33.46.070 Depositor's interest upon conversion. Upon the conversion of a bank into an association, every person who was a depositor of the bank at the time of the conversion shall become and be deemed to be a depositor of the association in a sum equal to the value of the deposits of the depositor in the bank as of the day on which the conversion was consummated. [1982 c 3 § 86; 1975 1st ex.s. c 83 § 7.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.080 Transfer of securities—**Conformance to state association laws, when**. All mortgages, notes, and other securities of any bank that has been converted into an association shall, on request of the association, be delivered to it by the supervisor of banking or, under the direction of the supervisor of banking, by any depository having possession thereof. If the association is a state association it shall, as soon as practicable and within such time and by such methods as the supervisor of savings and loan associations may direct, cause its organization, its securities and investments, the character of its business, and its methods of transacting the same to conform to the laws applicable to state associations. [1982 c 3 § 87; 1975 1st ex.s. c 83 § 8.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.100 Initial meeting of shareholders of domestic association—**Notice**—**Proxy voting**. Within twelve months following consummation of the conversion, the directors of a domestic association shall call a meeting of the members for the purpose of electing directors and conducting such other business of the association as is appropriate. Notice of such meeting shall be mailed not less than ten nor more than thirty days in advance of the meeting to the last known address of each member. The notice may also include a proxy form authorizing any one or more persons, who may be directors or officers of the association, selected by the directors, to vote on behalf of any member executing such proxy. [1982 c 3 § 88; 1975 1st ex.s. c 83 § 10.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.110 Conversion to federal association—**Procedure**. If the bank specifies in the resolution that it intends to become a federal association, it shall proceed to make all filings and do all things which are required by federal laws and regulations to qualify as and become a federal association, and when all such things have been accomplished and a charter has been issued by the appropriate federal agency, the bank shall thereupon cease to be a bank organized under the laws of this state. [1982 c 3 § 89; 1975 1st ex.s. c 83 § 11.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.46.130 Rules implementing chapter—**Standard**. The supervisor of savings and loan associations and the supervisor of banking shall adopt such rules under the administrative procedure act, chapter 34.04 RCW, as are necessary to implement this chapter in a manner which protects the relative interests of members, depositors, borrowers, stockholders, and creditors. [1982 c 3 § 90.]

Severability—1982 c 3: See note following RCW 33.04.002.

Chapter 33.48

STOCK ASSOCIATIONS

(Formerly: Guaranty stock state savings and loan associations)

Sections

33.48.010	Repealed.
33.48.020	Repealed.
33.48.025	Applicability of chapter 23A.08 RCW.
33.48.030	Minimum amount of permanent stock required— Preferred or special classes of shares authorized.
33.48.040	Stock dividends, when.
33.48.050	Repealed.
33.48.060	Repealed.
33.48.070	Repealed.
33.48.080	Member's proprietary interest—Subordinate to claims of creditors.
33.48.090	Dividends only if interest paid on deposits.
33.48.100	Conversion procedure—Domestic stock to domestic mutual association.
33.48.110	Conversion procedure—Mutual association to domes- tic stock association—Rules implementing sec- tion—Standard.
33.48.120	Conversion procedure—Creation of permanent loss reserve—Disposition of reserve upon liquidation.
33.48.140	Legislative intent—Chapter to control over conflict- ing provisions.
33.48.170	Organizing permit—Conditions.
33.48.180	Permit authorizing sale of stock—Applicability.
33.48.200	Permit authorizing sale of stock—Application— Contents.
33.48.210	Permit authorizing sale of stock—Examination and investigation—Issuance or denial.
33.48.220	Recitation in permit to take subscriptions for stock.
33.48.230	Sales of stock—Imposition of conditions.
33.48.240	Organizing permit—Amendment, alteration, suspen- sion, or revocation by supervisor—Grounds.
33.48.250	Purchase by association of stock issued by it— Conditions.
33.48.260	Reduction of stock—Conditions.
33.48.270	Reduction of stock—Disposition of surplus.
33.48.280	Paid-in or contributed surplus or surplus created by re- duction of stock—Application and uses.
33.48.290	RCW 33.48.150 through 33.48.280 inapplicable to for- eign associations.
33.48.320	Waiver of chapter requirements.

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

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

33.48.025 Applicability of chapter 23A.08 RCW. Except to the extent provided otherwise in this title, stock associations are subject to those provisions in chapter 23A.08 RCW, as now or hereafter amended, relating to issuance, sale, and repurchase of shares. [1982 c 3 § 91; 1981 c 84 § 4.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.030 Minimum amount of permanent stock required—Preferred or special classes of shares authorized. Stock associations shall have permanent stock which may be issued with or without par value but with a statement of value of nonpar stock in accordance with Title 23A RCW. The minimum amount of such stock shall be twenty-five thousand dollars in the case of associations outside of incorporated cities, or in cities of less than twenty-five thousand population. Associations

located in cities of greater population shall have as a minimum, fifty thousand dollars of such stock. The board of such association is authorized and directed to issue and maintain the stock in the following percentages: Three percent upon the first five million dollars; two percent upon the next three million dollars, and one percent upon all additional withdrawable savings: *Provided*, That associations whose savings are insured by the Federal Savings and Loan Insurance Corporation shall not be required to maintain stock in excess of three hundred thousand dollars. A stock association may issue preferred or special classes of shares as provided in chapter 23A.08 RCW. [1982 c 3 § 92; 1981 c 84 § 1; 1969 c 107 § 7; 1963 c 246 § 9; 1955 c 122 § 4.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.040 Stock dividends, when. No dividends shall be declared on stock until the association has met the net worth and federal insurance requirements of the federal savings and loan insurance corporation. Subject to the provisions of this chapter, stock shall be entitled to such rate of dividend, if earned, as fixed by the board. Stock dividends may be declared and issued by the board at any time, payable from otherwise unallocated surplus and undivided profits. [1982 c 3 § 93; 1981 c 84 § 2; 1979 c 113 § 14; 1955 c 122 § 5.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1979 c 113: See note following RCW 33.04.020.

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

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

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

33.48.080 Member's proprietary interest—Subordinate to claims of creditors. Each member in a stock association shall have a proportionate proprietary interest in its assets and net earnings subordinate to the claims of its creditors with priorities as established by this chapter. [1982 c 3 § 94; 1969 c 107 § 8; 1967 c 49 § 6; 1955 c 122 § 9.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.090 Dividends only if interest paid on deposits. No dividend shall be paid or credited upon shares of stock for any period in which the association has not declared and paid interest on deposits eligible to receive interest. [1982 c 3 § 95; 1955 c 122 § 10.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.100 Conversion procedure—Domestic stock to domestic mutual association. A domestic stock association may convert to a domestic mutual association under the provisions of applicable statutes and regulations of proper federal and state supervisory authorities. In

the event of compliance with such statutes and regulations an appraisal of the stock shall be made by the supervisor, upon written request of the directors of the association, and the appropriate value of the stock may be given consideration in the proceedings to convert by giving credit to such stock from surplus and other reserves. [1982 c 3 § 96; 1955 c 122 § 11.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.110 Conversion procedure—Mutual association to domestic stock association—Rules implementing section—Standard. Any mutual association, either domestic or federal, operating in the state of Washington may convert itself into a domestic stock association. The conversion shall be effected by the vote of two-thirds of the members present and voting in person or by proxy at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given to the supervisor and to each member by mailing notice to the member's last known address at least thirty days prior to the meeting.

At the meeting, the members may adopt a resolution amending its articles of incorporation and bylaws to provide for operation under this chapter as a stock association.

Upon adoption of the resolution, members shall be given notice of the proposed change and shall be offered, for a period of sixty days following the date of the meeting, the right to subscribe for the proposed stock, pro rata to their deposits in such mutual association, and such right shall be transferable. In the event that the total stock required has not, at the end of the sixty day period, been fully subscribed, the unsubscribed portion shall be offered to any former subscribers for such stock.

When the stock has been fully subscribed and paid for, certified copies of the documents relating to the conversion shall be submitted to the supervisor for his approval of the conversion proceedings. Upon notification by the supervisor that the supervisor approves the conversion, the directors shall adopt a resolution declaring the association to be a stock association and thereafter it shall be such.

The supervisor shall adopt such rules under chapter 34.04 RCW, the administrative procedure act, as are necessary to implement this section in a manner which protects the relative interests of members, depositors, borrowers, stockholders, and creditors. [1982 c 3 § 97; 1955 c 122 § 12.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.120 Conversion procedure—Creation of permanent loss reserve—Disposition of reserve upon liquidation. The accumulated surplus and unallocated reserves of an association at the time of conversion to a stock association shall be designated as a permanent loss reserve against which any losses incurred on assets may be charged. In case of liquidation the remaining sum in said permanent loss reserve shall be distributed to the depositors in proportion to the withdrawable value of

their deposit accounts at the time of liquidation. In liquidation, after payment of all liabilities and the withdrawable value of all types and classes of deposit accounts together with the remainder in the permanent loss reserve heretofore mentioned, any excess shall be paid pro rata to the stockholders. [1982 c 3 § 98; 1955 c 122 § 13.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.140 Legislative intent—Chapter to control over conflicting provisions. It is the intention of the legislature to grant, by this chapter, authority to create stock associations in this state, by either organization or conversion under its provisions, and in the event of conflict between the provisions of this chapter and other provisions of Title 33 RCW, such other provisions shall be construed in favor of the accomplishment of the purposes of this chapter. [1982 c 3 § 99; 1955 c 122 § 15.]

Severability—1982 c 3: See note following RCW 33.04.002.

33.48.170 Organizing permit—Conditions. The supervisor may impose conditions in the supervisor's organizing permit issued under RCW 33.48.150 concerning the deposit in escrow of funds collected pursuant to said permit, the manner of expenditure of such funds and such other conditions as he deems reasonable and necessary or advisable for the protection of the public and the subscribers to such stock or funds for preincorporation expenses. [1982 c 3 § 100; 1973 c 130 § 8.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.180 Permit authorizing sale of stock—Applicability. No association shall sell, take subscriptions for, or issue any stock until the association applies for and secures from the supervisor a permit authorizing it to sell stock.

This section does not apply to an offering involving less than five hundred thousand dollars nor to an offering made under a registration statement filed under the federal securities act of 1933 (48 Stat. 74; 15 U.S.C. Sec. 77a). [1982 c 3 § 101; 1973 c 130 § 5.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.200 Permit authorizing sale of stock—Application—Contents. An application for a permit to sell stock shall be in writing and shall be filed in the office of the supervisor by the association.

The application shall include the following:

- (1) Regarding the association:
 - (a) The names and addresses of its officers;
 - (b) The location of its office;
 - (c) An itemized account of its financial condition within ninety days of the filing date; and
 - (d) A copy of all minutes of any proceedings of its directors, shareholders, or stockholders relating to or affecting the issue of such stock;
- (2) Regarding the offering:

(a) The names and addresses of the selling stockholders and of the officers of any selling corporation and the partners of any selling partnership;

(b) A copy of any contract concerning the sale of the stock;

(c) A copy of a prospectus or advertisement or other description of the stock prepared for distribution or publication in accordance with requirements prescribed by the supervisor;

(d) A brief description of the method by which the stock is to be offered for sale including the offering price and the underwriting commissions and expense, if any; and

(3) Such additional information as the supervisor may require. [1982 c 3 § 102; 1973 c 130 § 10.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.210 Permit authorizing sale of stock—Examination and investigation—Issuance or denial. Upon the filing of the application for a permit to sell stock, the supervisor shall examine the application and other papers and documents filed therewith and he may make a detailed examination, audit, and investigation of the association and its affairs. If the supervisor finds that the proposed plan for the issue and sale of such stock is fair, just and equitable, the supervisor shall issue to the applicant a permit authorizing it to issue and dispose of its stock in such amounts and for such considerations and upon such terms and conditions as the supervisor may provide in the permit. If the supervisor does not so find he shall deny the application and notify the applicant in writing of his decision. [1982 c 3 § 103; 1973 c 130 § 11.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.220 Recitation in permit to take subscriptions for stock. Every permit to take subscriptions for stock shall recite in bold face type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the stock permitted to be issued. [1982 c 3 § 104; 1973 c 130 § 12.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.230 Sales of stock—Imposition of conditions. With respect to sales of stock by an association, the supervisor may impose conditions requiring the impoundment of the proceeds from the sale of stock, limiting the expense in connection with the sale of such stock, and other conditions as he deems reasonable and necessary or advisable to insure the disposition of the proceeds from the sale of such stock in the manner and for the purposes provided in the permit. [1982 c 3 § 105; 1973 c 130 § 13.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.240 Organizing permit—Amendment, alteration, suspension, or revocation by supervisor—Grounds. The supervisor may amend, alter, suspend, or revoke any permit issued under RCW 33.48.150 if there is a violation of the terms and conditions of the permit or if the supervisor determines that the subscription or proposed issue and sale is no longer fair, just, and equitable. [1982 c 3 § 106; 1973 c 130 § 14.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.250 Purchase by association of stock issued by it—Conditions. An association may purchase stock issued by it in an amount not to exceed the amount of earned surplus or undivided profits available for dividends on its stock if either: the stock so purchased is included for federal estate tax purposes in determining the gross estate of a decedent, and the amount paid for such purchase is entitled to be treated under section 303 of the Internal Revenue Code of 1954 (68A Stat. 3; 26 U.S.C. Sec. 1), or other applicable federal statute or the corresponding provision of any future federal revenue law, as a distribution in full payment in exchange for the stock so purchased, or such purchase is with the prior consent of the supervisor. Stock so purchased until sold shall be carried as treasury stock. Upon the purchase of any stock issued by the association, an amount equal to the purchase price shall be set aside from earned surplus or undivided profits available for dividends to a specific reserve account established for this purpose. Upon sale of any of such stock, the amount relating thereto in the specific reserve account shall be returned to the surplus or undivided profits account (as the case may be) and shall be available for dividends. Reacquired stock shall not be resold at less than its reacquisition cost, without the specific approval of the supervisor, and shall not be resold or reissued except in accordance with RCW 33.48.220 through 33.48.240. [1982 c 3 § 107; 1973 c 130 § 15.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.260 Reduction of stock—Conditions. With the prior consent of the supervisor, the stock of an association may be reduced by resolution of the board of directors approved by the vote or written consent of the holders of a majority in amount of the outstanding stock of the association to such amount as the supervisor approves. [1982 c 3 § 108; 1973 c 130 § 16.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.270 Reduction of stock—Disposition of surplus. Any surplus resulting from reduction of stock shall not be available for dividends or other distribution to stockholders except upon liquidation. [1982 c 3 § 109; 1973 c 130 § 17.]

Severability—1982 c 3: See note following RCW 33.04.002.

Severability—1973 c 130: See note following RCW 33.24.350.

33.48.280 Paid-in or contributed surplus or surplus created by reduction of stock—Application and uses. An association may, by action of its board of directors and with the prior approval of the supervisor, apply any part or all of any paid-in or contributed surplus or any surplus created by reduction of stock to the reduction or writing off of any deficit arising from losses or diminution in value of its assets, or may transfer to or designate as a part of its federal insurance account or any other reserve account irrevocably established for the sole purpose of absorbing losses, any part or all of any paid-in or contributed surplus or any surplus created by reduction of stock. [1982 c 3 § 110; 1973 c 130 § 18.]

Severability—1982 c 3: See note following RCW 33.04.002.
Severability—1973 c 130: See note following RCW 33.24.350.

33.48.290 RCW 33.48.150 through 33.48.280 inapplicable to foreign associations. RCW 33.48.150 through 33.48.280 do not apply to foreign associations doing business in this state pursuant to the provisions of chapter 33.32 RCW. [1982 c 3 § 111; 1973 c 130 § 19.]

Severability—1982 c 3: See note following RCW 33.04.002.
Severability—1973 c 130: See note following RCW 33.24.350.

33.48.320 Waiver of chapter requirements. If, in the opinion of the supervisor, it is necessary for any of the requirements of this chapter to be waived in order to permit an association which is in danger of failing to convert its charter from a mutual association to a stock association or from a stock association to a mutual association so that the association may be acquired by an association or a savings and loan holding company, then the supervisor may waive any such requirement. [1982 c 3 § 112.]

Severability—1982 c 3: See note following RCW 33.04.002.

Title 34

ADMINISTRATIVE LAW

Chapters

- 34.04 Administrative procedure act.**
- 34.08 Washington State Register Act of 1977.**
- 34.12 Office of administrative hearings.**

*Procedures of various agencies to accord Administrative Procedure Act council on child abuse and neglect: RCW 43.121.050.
 department of licensing camping clubs: RCW 19.105.540.
 Regulatory fairness act: Chapter 19.85 RCW.*

Chapter 34.04

ADMINISTRATIVE PROCEDURE ACT

Sections

- 34.04.010 Definitions.
- 34.04.025 Notices of intention to adopt rules—Opportunity to submit data—Proceedings on rule barred until twenty days after register distribution—Noncompliance, effect.

- 34.04.045 Statement of proposed rule's purpose and how implemented—Contents—Distribution by agency.
- 34.04.050 Code reviser to compile and edit rules, publish register—Removal of unconstitutional rules—Distribution of registers and codes—County law library trustees to maintain set—Judicial notice of rules.
- 34.04.070 Declaratory judgment on validity of rule—Small business economic impact statement action as part of record.
- 34.04.150 Exclusions from chapter or parts of chapter.
- 34.04.270 Agency review of own rules for conformity with federal law.
- 34.04.280 Reports by agency to office of financial management—Compilation by office of financial management provided to legislative officers.
- 34.04.290 Application of RCW 34.04.270 and 34.04.280.

*Procedures of various agencies to accord Administrative Procedure Act department of licensing camping clubs: RCW 19.105.540.
 legislative and congressional redistricting: Chapter 29.70 RCW.
 voting boundary commission: Chapter 29.70 RCW.
 Regulatory fairness act: Chapter 19.85 RCW.*

34.04.010 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Agency" means any state board, commission, department, or officer, authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches.

(2) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.04.080, as now or hereafter amended, or (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices.

(3) "Contested case" means a proceeding before an agency in which an opportunity for a hearing before such agency is required by law or constitutional right prior or subsequent to the determination by the agency of the legal rights, duties, or privileges of specific parties. Contested cases shall also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law or agency rules.

(4) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any activity, but does not include a license required solely for revenue purposes.

(5) "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or modification of a license.

(6) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.04.210 for the purpose of selectively reviewing existing and proposed rules of state agencies. [1982 c 10 § 5. Prior: 1981 c 324 § 2; 1981 c 183 § 1; 1967 c 237 § 1; 1959 c 234 § 1.]

Severability—1982 c 10: See note following RCW 6.12.100.

Legislative affirmation—1981 c 324: "The legislature affirms that all rule-making authority of state agencies and institutions of higher education is a function delegated by the legislature, and as such, shall be exercised pursuant to the conditions and restrictions contained in this act." [1981 c 324 § 1.]

Severability—1981 c 324: "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." [1981 c 324 § 18.]

In the above two annotations, the phrase "this act" refers to the amendment of RCW 28B.19.020, 28B.19.030, 28B.19.040, 34.04.010, 34.04.025, and 34.04.030 and to the enactment of RCW 28B.19.160, 28B.19.163, 28B.19.165, 28B.19.168, and 34.04.210 through 34.04.260 by 1981 c 324.

34.04.025 Notices of intention to adopt rules—Opportunity to submit data—Proceedings on rule barred until twenty days after register distribution—Noncompliance, effect. (1) Prior to the adoption, amendment, or repeal of any rule, each agency shall:

(a) File notice thereof with the code reviser in accordance with RCW 34.08.020(1) for publication in the state register, and with the rules review committee, and mail such notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings. Such notice shall also include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon;

(b) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In case of substantive rules, opportunity for oral hearing must be granted if requested by twenty-five persons, by a governmental subdivision or agency, by the rules review committee, or by an association having not less than twenty-five members.

(2) The agency shall make every effort to insure that the information on the proposed rule circulated pursuant to subsection (1)(a) of this section accurately reflects the rule to be presented and discussed at any oral hearing on such rule. Where substantial changes in the draft of the proposed rule are made after publication of notice in the register which would render it difficult for interested persons to properly comment on the rule without

further notice, new notice of the agency's intended action as provided in subsection (1)(a) of this section shall be required.

(3) The agency shall consider fully all written and oral submissions respecting the proposed rule including those addressing the question of whether the proposed rule is within the intent of the legislature as expressed by the statute which the rule implements, and may amend the proposed rule at the oral hearing or adopt the proposed rule, if there are no substantial changes, without refile the notice required by this section. Upon adoption of a rule, the agency, if requested to do so by an interested person either prior to adoption or within thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(4) No proceeding may be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained. The code reviser shall make provisions for informing an agency giving notice under subsection (1) of this section of the distribution date of the register in which such notice will be published.

(5) No rule hereafter adopted is valid unless adopted in substantial compliance with this section, unless it is an emergency rule designated as such and is adopted in substantial compliance with RCW 34.04.030, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of RCW 34.08.020(1), of this section, or of RCW 34.04.030, as now or hereafter amended, after two years have elapsed from the effective date of the rule. [1982 c 221 § 1; 1981 c 324 § 3; 1977 ex.s. c 240 § 7; 1971 ex.s. c 250 § 17; 1967 c 237 § 3.]

Legislative affirmation—Severability—1981 c 324: See notes following RCW 34.04.010.

Effective date—1977 ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 ex.s. c 240: See RCW 34.08.910.

Construction—Severability—1971 ex.s. c 250: See RCW 42.30.910, 42.30.920.

Agency duties and options when adopting rule affecting small business: RCW 19.85.030.

Small business economic impact statement—Purpose—Contents: RCW 19.85.040.

34.04.045 Statement of proposed rule's purpose and how implemented—Contents—Distribution by agency. (1) For the purpose of legislative review of agency rules filed pursuant to this chapter, any proposed new or amendatory rule shall be accompanied by a statement prepared by the adopting agency which generally describes the rule's purpose and how the rule is to be implemented. Such statement shall be on the agency's stationery or a form bearing the agency's name and shall contain, but is not limited to, the following:

(a) A title, containing a description of the rule's purpose and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

(h) A copy of the small business economic impact statement, where applicable.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the statement on file and available for public inspection and shall forward three copies of the notice and the statement to the rules review committee. [1982 c 221 § 2; 1982 c 6 § 7; 1980 c 186 § 10; 1977 ex.s. c 84 § 1.]

Severability—1982 c 6: See RCW 19.85.900.

Severability—1980 c 186: "If any provision of this 1980 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." [1980 c 186 § 29.]

Small business economic impact statement—*Purpose*—*Contents*: RCW 19.85.040.

34.04.050 Code reviser to compile and edit rules, publish register—Removal of unconstitutional rules—Distribution of registers and codes—County law library trustees to maintain set—Judicial notice of rules. (1) The code reviser shall, as soon as practicable after March 23, 1960, compile and index all rules adopted by each agency and remaining in effect. Compilations shall be supplemented or revised as often as necessary and at least once every two years.

(2) The code reviser shall publish a register in which he shall set forth the text of all rules filed during the appropriate register publication period.

(3) The code reviser may, in his discretion, omit from the register or the compilation, rules, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if such rules are made available in printed or processed form on application to the adopting agency, and if such register or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

(4) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule, in accordance with the provisions of RCW 34.04.052.

(5) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting agency shall give notice to that effect in the

register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

(a) The rules are declared unconstitutional by a court of final appeal; or

(b) The adopting agency ceases to exist and the rules are not transferred by statute to a successor agency.

(6) Registers and compilations shall be made available, in written form to (a) state elected officials whose offices are created by Article II or III of the state Constitution or by RCW 48.02.010, upon request, (b) to the secretary of the senate and the chief clerk of the house for committee use, as required, but not to exceed the number of standing committees in each body, (c) to county boards of law library trustees and to the Olympia representatives of the Associated Press and the United Press International without request, free of charge, and (d) to other persons at a price fixed by the code reviser.

(7) The board of law library trustees of each county shall keep and maintain a complete and current set of registers and compilations for use and inspection as provided in RCW 27.24.060.

(8) Judicial notice shall be taken of rules filed and published as provided in RCW 34.04.040 and this section. [1982 1st ex.s. c 32 § 7; 1980 c 186 § 12; 1977 ex.s. c 240 § 9; 1959 c 234 § 5.]

Severability—1980 c 186: See note following RCW 34.04.045.

Effective date—1977 ex.s. c 240: See note following RCW 34.08.010.

Severability—1977 ex.s. c 240: See RCW 34.08.910.

34.04.070 Declaratory judgment on validity of rule—Small business economic impact statement action as part of record. (1) The validity of any rule may be determined upon petition for a declaratory judgment thereon addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair, the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(2) In a proceeding under subsection (1) of this section the court shall declare the rule invalid only if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures.

(3) A petition for a declaratory judgment pursuant to this section may not be solely based on the contents of the small business economic impact statement. However, in the case of a petition for a declaratory judgment as to the validity of any rule which is adopted after June 10, 1982, and which is based on grounds other than the contents of the small business economic impact statement, the compliance or noncompliance by the agency with the provisions of this chapter and where applicable the small business economic impact statement shall constitute part of the whole record of the agency's action in

connection with the petition. [1982 c 6 § 8; 1959 c 234 § 7.]

Severability—1982 c 6: See RCW 19.85.900.

Small business economic impact statement—**Purpose**—**Contents**: RCW 19.85.040.

34.04.150 Exclusions from chapter or parts of chapter. Except as provided under RCW 34.04.290, this chapter shall not apply to the state militia, or the board of prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04.170 shall not apply to the denial, suspension, or revocation of a driver's license by the department of licensing. To the extent they are inconsistent with RCW 80.50.140, the provisions of RCW 34.04.130, 34.04.133, and 34.04.140 shall not apply to review of decisions made under RCW 80.50.100. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act. [1982 c 221 § 6; 1981 c 64 § 2; 1979 c 158 § 90; 1971 ex.s. c 57 § 17; 1971 c 21 § 1; 1967 ex.s. c 71 § 1; 1967 c 237 § 7; 1963 c 237 § 1; 1959 c 234 § 15.]

Effective dates—**Severability**—1971 ex.s. c 57: See notes following RCW 28B.19.010.

34.04.270 Agency review of own rules for conformity with federal law. Each agency head shall be responsible for conducting a review of the agency's rules contained in the Washington Administrative Code in order to identify each rule which the agency head believes was designed, in whole or in part, to conform to a federal law which, on or after January 1, 1981, has been eliminated or changed in a manner which reduces or deletes the requirements or standards with which the rule was designed to conform. For purposes of this section, "federal law" includes federal statutes and federal rules and regulations. [1982 c 221 § 3.]

34.04.280 Reports by agency to office of financial management—**Compilation by office of financial management provided to legislative officers.** (1) By November 1, 1982, and each year thereafter, each agency shall provide the office of financial management with a document containing: (a) A list citing the rules identified pursuant to RCW 34.04.270 and the actions, if any, taken by the agency head to change or eliminate the rules; and (b) a list of those rules which cannot be changed or eliminated without conflicting with the statutes authorizing, or dealing with, the rules and a list of such statutes.

(2) The office of financial management shall compile the documents submitted under subsection (1) of this section and by January 1, 1983, and each year thereafter, shall provide the compilation to the speaker of the

house of representatives and the president of the senate. [1982 c 221 § 4.]

34.04.290 Application of RCW 34.04.270 and 34.04.280. RCW 34.04.270 and 34.04.280 apply to each "agency" as defined in RCW 34.04.010. It also applies to each agency exempted, in whole or in part, under RCW 34.04.150. [1982 c 221 § 5.]

Chapter 34.08

WASHINGTON STATE REGISTER ACT OF 1977

Sections

- 34.08.020 Washington State Register—Created—Publication period—Contents (as amended by 1981 c 299).
34.08.020 Washington State Register—Created—Publication period—Contents (as amended by 1982 c 6).

Regulatory fairness act: Chapter 19.85 RCW.

34.08.020 Washington State Register—Created—Publication period—Contents (as amended by 1981 c 299). There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification;

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register; and

(7) Juvenile disposition standards and security guidelines proposed and adopted under RCW 13.40.030. [1981 c 299 § 18; 1980 c 186 § 15; 1977 ex.s. c 240 § 3.]

34.08.020 Washington State Register—Created—Publication period—Contents (as amended by 1982 c 6). There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1) (a) The full text of any proposed new or amendatory rule, as defined in RCW 34.04.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.04.030, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.04.050(3) as now or hereafter amended;

(b) The small business economic impact statement, if required by RCW 19.85.030, preceding the full text of the proposed new or amendatory rule;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification; and

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register. [1982 c 6 § 6; 1980 c 186 § 15; 1977 ex.s. c 240 § 3.]

Reviser's note: RCW 34.08.020 was amended during the 1981 regular legislative session by 1981 c 299 § 18; such section was subsequently amended during the 1982 regular session, 1982 c 6 § 6, without reference to the 1981 amendment.

Severability—1982 c 6: See RCW 19.85.900.

Severability—1980 c 186: See note following RCW 34.04.045.

Schedule of regular meetings of state agencies: RCW 42.30.075.

Chapter 34.12

OFFICE OF ADMINISTRATIVE HEARINGS

Sections

34.12.020	Definitions.
34.12.042	Exclusion of certain hearings by utilities and transportation commission.
34.12.060	Initial decision or proposal for decision—Findings of fact and conclusions of law.
34.12.130	Administrative hearings revolving fund—Created, purposes.
34.12.140	Transfers and payments into revolving fund—Limitation on employment security department payments—Allotment by director of financial management—Disbursements from fund by voucher.
34.12.150	Accounting procedures.
34.12.160	Direct payments by agencies, when authorized.

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

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means a "contested case" within the meaning of RCW 34.04.010(3) conducted by a state agency.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the state personnel board, the higher education personnel board, the public employment relations commission, personnel appeals board, and the board of tax appeals. [1982 c 189 § 1; 1981 c 67 § 2.]

Effective date—1982 c 189: "This act shall take effect July 1, 1982." [1982 c 189 § 16.]

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

34.12.042 Exclusion of certain hearings by utilities and transportation commission. RCW 34.12.040 shall not apply to transportation tariff docket hearings conducted by the Washington utilities and transportation commission. The Washington utilities and transportation commission may, however, on its own motion, refer any transportation docket item to an administrative law judge where it is determined that the transportation tariff item in question may have an overall economic impact on transportation costs. [1982 c 189 § 13.]

Effective date—1982 c 189: See note following RCW 34.12.020.

34.12.060 Initial decision or proposal for decision—Findings of fact and conclusions of law. When an administrative law judge presides at a hearing under this chapter and a majority of the officials of the agency who are to render the final decision have not heard substantially all of the oral testimony and read all exhibits submitted by any party, it shall be the duty of such judge, or in the event of his unavailability or incapacity, of another judge appointed by the chief administrative law judge, to issue an initial decision or proposal for decision including findings of fact and conclusions of law in accordance with RCW 34.04.110. [1982 c 189 § 2; 1981 c 67 § 6.]

Effective date—1982 c 189: See note following RCW 34.12.020.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

34.12.130 Administrative hearings revolving fund—Created, purposes. The administrative hearings revolving fund is hereby created in the state treasury for the purpose of centralized funding, accounting, and distribution of the actual costs of the services provided to agencies of the state government by the office of administrative hearings. [1982 c 189 § 9.]

Effective date—1982 c 189: See note following RCW 34.12.020.

34.12.140 Transfers and payments into revolving fund—Limitation on employment security department payments—Allotment by director of financial management—Disbursements from fund by voucher. The amounts to be disbursed from the administrative hearings revolving fund from time to time shall be transferred thereto by the state treasurer from funds appropriated to any and all agencies for administrative hearings expenses on a quarterly basis. Agencies operating in whole or in part from nonappropriated funds shall pay into the administrative hearings revolving fund such funds as will fully reimburse funds appropriated to the office of administrative hearings for any services provided activities financed by nonappropriated funds. The funds from the employment security department for the administrative hearings services provided by the office of administrative hearings shall not exceed that portion of

the resources provided to the employment security department by the department of labor, employment and training administration, for such administrative hearings services. To satisfy department of labor funding requirements, the office of administrative hearings shall meet or exceed timeliness standards under federal regulations in the conduct of employment security department appeals.

The director of financial management shall allot all such funds to the office of administrative hearings for the operation of the office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other agencies under chapter 43.88 RCW.

Disbursements from the administrative hearings revolving fund shall be pursuant to vouchers executed by the chief administrative law judge or his designee. [1982 c 189 § 10.]

Effective date—1982 c 189: See note following RCW 34.12.020.

34.12.150 Accounting procedures. The chief administrative law judge shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and agencies served. Billings shall be adjusted in line with actual costs incurred at intervals not to exceed six months. [1982 c 189 § 11.]

Effective date—1982 c 189: See note following RCW 34.12.020.

34.12.160 Direct payments by agencies, when authorized. In cases where there are unanticipated demands for services of the office of administrative hearings or where there are insufficient funds on hand or available for payment through the administrative hearings revolving fund or in other cases of necessity, the chief administrative law judge may request payment for services directly from agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management, the agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1982 c 189 § 12.]

Effective date—1982 c 189: See note following RCW 34.12.020.

Title 35 CITIES AND TOWNS

Chapters

- 35.02** Incorporation proceedings.
- 35.03** Incorporation of first class cities.
- 35.21** Miscellaneous provisions affecting all cities and towns.
- 35.39** Fiscal—Investment of funds.
- 35.49** Local improvements—Collection of assessments.

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- 35.50** Local improvements—Foreclosure of assessments.
- 35.58** Metropolitan municipal corporations.
- 35.75** Streets—Bicycles—Paths.
- 35.92** Municipal utilities.

Camping club contracts—Nonapplicability of certain laws to—Club not subdivision except under city, county powers: RCW 19.105.510.

Facilitating recovery from Mt. St. Helens eruption—Scope of local government action: RCW 36.01.150.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Restricting by local governments and municipal corporations—Census information for—Plan, prepared when, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous: RCW 29.70.100.

Chapter 35.02

INCORPORATION PROCEEDINGS

Sections

- 35.02.150** Pending final disposition of petition no other petition for incorporation to be acted upon—Withdrawal or substitution—Action on petition for annexation authorized.

Incorporation proceedings exempt from State Environmental Policy Act: RCW 36.93.170, 43.21C.220.

35.02.150 Pending final disposition of petition no other petition for incorporation to be acted upon—Withdrawal or substitution—Action on petition for annexation authorized. After the filing of any petition for incorporation with the county auditor, and pending its final disposition as provided for in this chapter, no other petition for incorporation which embraces any of the territory included therein shall be acted upon by the county auditor or the county legislative authority or by any other public official or body that might otherwise be empowered to receive or act upon such a petition: *Provided*, That any petition for incorporation may be withdrawn, or a new petition embracing other or different boundaries may be substituted therefor, by a majority of the signers thereof, at any time before such petition has been certified by the county auditor to the county legislative authority in which case the same proceedings shall be taken as in the case of an original petition. A boundary review board, county auditor, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing. [1982 c 220 § 3; 1973 1st ex.s. c 164 § 1; 1965 c 7 § 35.02.150. Prior: 1961 c 200 § 1.]

Severability—1982 c 220: See note following RCW 36.93.100.

Annexation petition

action without regard to priority of filing: RCW 36.93.115. no other annexation petition to be acted upon pending final disposition: RCW 35.13.175.

Chapter 35.03

INCORPORATION OF FIRST CLASS CITIES

Sections

- 35.03.035 Incorporation as noncharter code city—Freeholders to act as mayor and council.
 35.03.040 Charter—Procedure for adoption—Election of first officials.

Incorporation proceedings exempt from State Environmental Policy Act: RCW 36.93.170, 43.21C.220.

35.03.035 Incorporation as noncharter code city—Freeholders to act as mayor and council. (1) If the proposition referred to in RCW 35.03.030 is approved by majority vote, the county legislative authority shall declare the territory to be incorporated as a noncharter code city. The effective date of the incorporation shall be when the county legislative authority files the declaration of the election results in favor of the incorporation in the office of the secretary of state. The city shall act under the provisions of Title 35A RCW as a noncharter code city and possess the powers of a noncharter code city unless the subsequent question of adopting the yet to be drafted proposed charter is approved.

The person who is elected as a freeholder receiving the greatest number of votes shall act as the mayor and the seven persons who are elected as freeholders receiving the next greatest number of votes shall act as the city council unless the city governing body is altered pursuant to an approved first class city charter. Such persons shall take office immediately after they are elected and qualified.

(2) Should the proposed charter be rejected by the voters, the city shall remain as a noncharter code city and the mayor and the seven member council shall remain in office until their successors are elected and qualified.

(4) The provisions of this section shall retroactively apply to any area proposed to be incorporated under this chapter if the proposition referred to in RCW 35.03.030 has not been submitted to the voters prior to June 10, 1982. [1982 c 220 § 8.]

Reviser's note: Subsection (3) of this section was vetoed.

Severability—1982 c 220: See note following RCW 36.93.100.

35.03.040 Charter—Procedure for adoption—Election of first officials. The fifteen freeholders receiving the highest number of votes at such election shall be certified by the county auditor as elected as freeholders to form a charter for said city provided a majority of those voting at the election referred to in RCW 35.03.030 vote in favor of incorporation. It shall be the duty of the persons so elected to convene within ten days after their election and frame a charter for said city, and within sixty days thereafter they, or a majority of their number, shall submit such charter to the county legislative authority which shall cause another election to be called and held in said city and to be conducted in the manner required for the calling of a special election in Title 29 RCW and to be held at the next special election date provided for in RCW 29.13.010 that is at least sixty days after the approval of the proposition referred

to in RCW 35.03.030, as now or hereafter amended, except as otherwise provided in this chapter, and in conformity with Article 11, section 10 of the Constitution, for the purpose of submitting said charter to the qualified electors of said city and for the election of the various elective officials to the respective offices named in said charter. The form of ballot at such election shall be "for proposed charter," "against proposed charter," and the names of the candidates for the respective offices named in said proposed charter. At the first election of officials for said city any qualified elector of said city may become a candidate for any of the elective offices set forth in such proposed charter without nomination by filing with the proper election officials of the county a declaration in writing that he desires to be a candidate for a particular office (naming it), such declaration to be filed not earlier than sixty nor later than thirty days prior to such election. Candidates for council positions shall file for a numbered position as provided by RCW 29.21.017. The candidates receiving the highest number of votes for the respective offices shall be declared elected to such office and the county auditor shall issue a certificate of such election. The newly elected officials shall assume office when qualified in accordance with RCW 29.01.135. After the first election the nomination and election of officials for said city shall be as prescribed in the charter adopted by the people and the laws of the state. No person shall be entitled to vote at such election unless he shall be a qualified elector of said city and shall have resided within the limits of said city for at least thirty days preceding such election. [1982 c 220 § 7; 1979 ex.s. c 126 § 16; 1969 ex.s. c 270 § 4; 1965 c 7 § 35.03.040. Prior: 1951 c 153 § 3.]

Severability—1982 c 220: See note following RCW 36.93.100.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Conduct of elections: RCW 29.13.040.

Submission of charter: State Constitution Art. 11 § 10 (Amendment 40), RCW 35.22.060.

Chapter 35.21

MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

Sections

- 35.21.180 Ordinances—Adoption of codes by reference.
 35.21.285 Special excise tax authorized—Hotel, motel, rooming house, trailer camp, etc., charges.
 35.21.705 Imposition or alteration of business and occupation tax—Special initiative procedure required.
 35.21.710 License fees or taxes on certain business activities—Uniform rate required—Maximum rate established.
 35.21.711 License fees or taxes on certain business activities—Excess rates authorized by voters.
 35.21.840 Taxation of motor carriers of freight for hire—Allocation of gross receipts.
 35.21.845 Taxation of motor carriers of freight for hire—Tax allocation formula.
 35.21.850 Taxation of motor carriers of freight for hire—Limitation—Exceptions.
 35.21.860 Electricity, telephone, or natural gas business—Franchise fees prohibited—Exceptions.
 35.21.865 Electricity, telephone, or natural gas business—Limitations on tax rate changes.

35.21.870 Electricity, telephone, or natural gas business—Tax limited to six percent—Exception.

Disturbances at state penal facilities

contingency plans—Report of failure to support: RCW 72.02.170.

development of contingency plans—Scope—Local participation: RCW 72.02.150.

reimbursement to cities and counties for certain expenses incurred: RCW 72.72.050, 72.72.060.

utilization of outside law enforcement personnel—Scope: RCW 72.02.160.

Dog handler using police dog in line of duty—Immunity: RCW 4.24.410.

35.21.180 Ordinances—Adoption of codes by reference. Ordinances passed by cities or towns must be posted or published in a newspaper as required by their respective charters or the general laws: *Provided*, That ordinances may by reference adopt Washington state statutes and codes, including fire codes and ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing and selling of meats and meat products for human consumption, the production, pasteurizing and sale of milk and milk products, or other subjects, may adopt by reference, any printed code or compilation, or portions thereof, together with amendments thereof or additions thereto, on the subject of the ordinance; and where publications of ordinances in a newspaper is required, such Washington state statutes or codes or other codes or compilations so adopted need not be published therein: *Provided, however*, That not less than one copy of such statute, code or compilation and amendments and additions thereto adopted by reference shall be filed for use and examination by the public, in the office of the city or town clerk of said city, or town prior to adoption thereof. Any city or town ordinance heretofore adopting any state law or any such codes or compilations by reference are hereby ratified and validated. [1982 c 226 § 1; 1965 c 7 § 35-.21.180. Prior: 1963 c 184 § 1; 1943 c 213 § 1; 1935 c 32 § 1; Rem. Supp. 1943 § 9199-1.]

Effective date—1982 c 226: "This act shall take effect on July 1, 1982." [1982 c 226 § 8.]

35.21.285 Special excise tax authorized—Hotel, motel, rooming house, trailer camp, etc., charges. Any city with a population of twenty-five thousand or more, but less than four hundred thousand, may impose a special excise tax of up to three percent on the sale or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than fifteen lodging units. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes rental or lease of real property and not a mere license to use or enjoy the same. The proceeds of this tax may only be used to fund the acquisition, design, and construction of convention or trade facilities.

This tax is in addition to the sales taxes that cities are authorized to impose in chapter 82.14 RCW and RCW 67.28.180. The tax shall not be a deduction from sales taxes imposed by the state.

Any city imposing the sales tax authorized in this section may contract with the state department of revenue for its collection and distribution as provided in chapter 82.14 RCW for the collection and distribution of general sales taxes imposed by cities. [1982 1st ex.s. c 22 § 20.]

Severability—1982 1st ex.s. c 22: See RCW 67.38.905.

Special excise tax authorized

for convention and trade facilities: RCW 67.40.100.

for public stadium, convention, and arts facilities: RCW 67.28-.180 through 67.28.210.

Special excise tax imposed in King county for state convention and trade center: RCW 67.40.090.

35.21.705 Imposition or alteration of business and occupation tax—Special initiative procedure required. Every city and town first imposing a business and occupation tax or increasing the rate of the tax after April 20, 1982, shall provide for a special initiative procedure on an ordinance imposing or altering each tax. Such a special initiative procedure shall subject the ordinance imposing or altering the tax to approval or rejection by the voters. If the voters of the city or town otherwise possess the general power of initiative on city or town matters, this special initiative procedure shall conform to the requirements of that procedure. If the voters of a city or town do not otherwise possess the general power of initiative on city or town matters, this special initiative procedure shall conform to the requirements and procedures for initiative petitions provided for code cities in RCW 35A.11.100. [1982 1st ex.s. c 49 § 9.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Municipal business and occupation tax authorized: RCW 35.95.040.

35.21.710 License fees or taxes on certain business activities—Uniform rate required—Maximum rate established. Any city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. The taxing authority granted to cities for taxes upon business activities measured by gross receipts or gross income from sales shall not exceed a rate of .0020; except that any city with an adopted ordinance at a higher rate, as of January 1, 1982 shall be limited to a maximum increase of ten percent of the January 1982 rate, not to exceed an annual incremental increase of two percent of current rate: *Provided*, That any adopted ordinance which classifies according to different types of business or services shall be subject to both the ten percent and the two percent annual incremental increase limitation on each tax rate: *Provided further*, That all surtaxes on business and occupation classifications in effect as of January 1, 1982, shall expire no

later than December 31, 1982, or by expiration date established by local ordinance. Cities which impose a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales shall be required to submit an annual report to the department of revenue identifying the rate established and the revenues received from each fee or tax. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.16.010, shall be deemed to be the retail sale of tangible personal property. [1982 1st ex.s. c 49 § 7; 1981 c 144 § 6; 1972 ex.s. c 134 § 6.]

Intent—1982 1st ex.s. c 49: "The legislature hereby recognizes the concern of local governmental entities regarding the financing of vital services to residents of this state. The legislature finds that local governments are an efficient and responsive means of providing these vital services to the citizens of this state. It is the intent of the legislature that vital services such as public safety, public health, and fire protection be recognized by all local governmental entities in this state as top priorities of the citizens of Washington." [1982 1st ex.s. c 49 § 1.]

Construction—1982 1st ex.s. c 49: "Nothing in this act precludes the imposition of business and occupation taxes by cities and towns, or of sales and use taxes. However, nothing in this act authorizes the imposition of a business and occupation tax by any county." [1982 1st ex.s. c 49 § 6.]

Effective date—1982 1st ex.s. c 49: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except section 5 of this act shall take effect July 1, 1982." [1982 1st ex.s. c 49 § 25.]

Fire district funding—1982 1st ex.s. c 49: "County legislative authorities who levy optional taxes pursuant to this act shall fully consider funding for fire districts within their respective jurisdictions during the county budget process.

The local government committees of the legislature shall study fire district services and funding and shall report back to the Washington State Legislature by December 31, 1982." [1982 1st ex.s. c 49 § 23.]

Reviser's note: "Section 5 of this act" is the 1982 1st ex.s. c 49 amendment to RCW 82.02.020. The remainder of "this act" [1982 1st ex.s. c 49] consists of the 1982 amendments to RCW 35.21.710, 82.14.030, 82.14.040, 82.44.150 and the enactment of RCW 35.21.705, 35.21.711, 35.21.860, 35.21.865, 35.21.870, 82.14.035, 82.14.200, 82.14.210, chapter 82.46 RCW, and the four sections noted above.

Intent—Severability—Effective date—1981 c 144: See notes following RCW 82.16.010.

License fees or taxes on financial institutions: Chapter 82.14A RCW.

35.21.711 License fees or taxes on certain business activities—Excess rates authorized by voters. The qualified voters of any city or town may by majority vote approve rates in excess of the provisions of RCW 35.21.710. [1982 1st ex.s. c 49 § 8.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

35.21.840 Taxation of motor carriers of freight for hire—Allocation of gross receipts. The following principles shall allocate gross receipts of a motor carrier of freight for hire (called the "motor carrier" in this section) to prevent multiple taxation by two or more municipalities. They shall apply when two or more municipalities in this state impose a license fee or tax for the act or privilege of engaging in business activities;

each municipality has a basis in local activity for imposing its tax; and the gross receipts measured by all taxing municipalities, added together, exceed the motor carrier's gross receipts.

(1) No municipality shall be entitled to an allocation of the gross receipts of a motor carrier on account of the use of its streets or highways when no pick-up or delivery occurs therein.

(2) Gross receipts of a motor carrier derived within a municipality, where it solicits orders and engages in business activities that are a significant factor in holding the market but where it maintains no office or terminal, shall be allocated equally between the municipality providing the local market and the municipality where the motor carrier's office or terminal is located. Where no such local solicitation and business activity occurs, all the gross receipts shall be allocated to the municipality where the office or terminal is located irrespective of the place of pick-up or delivery. The word "terminal" means a location at which any three of the following four occur: Dispatching takes place, from which trucks operate or are serviced, personnel report and receive assignments, and orders are regularly received from the public.

(3) Gross receipts of a motor carrier that are not attributable to transportation services, such as investment income, truck repair, and rental of equipment, shall be allocated to the office or terminal conducting such activities.

(4) Gross receipts of a motor carrier with an office or terminal in two or more municipalities in this state shall be allocated to the office or terminal at which the transportation services commenced. [1982 c 169 § 1.]

Applicability—1982 c 169: "This act applies to motor carriers of freight for hire only. Nothing in this act applies to a person engaged in the business of making sales at retail or wholesale or of providing storage services for tangible personal property." [1982 c 169 § 4.] This applies to RCW 35.21.840, 35.21.845, and 35.21.850.

Motor freight carriers: Chapter 81.80 RCW.

Municipal business and occupation tax authorized: RCW 35.95.040.

35.21.845 Taxation of motor carriers of freight for hire—Tax allocation formula. A motor carrier of freight for hire whose gross receipts are subject to multiple taxation by two or more municipalities in this state may request and thereupon shall be given a joint audit of the taxpayer's books and records by all of the taxing authorities seeking to tax all or part of such gross receipts. Such taxing authorities shall agree upon and establish a tax allocation formula which shall be binding upon the taxpayer and the taxing authorities participating in the audit or receiving a copy of such request from the taxpayer. Payment by the taxpayer of the taxes to each taxing authority in accordance with such tax allocation formula shall be a complete defense in any action by any taxing authority to recover additional taxes, interest, and/or penalties. A taxing municipality, whether or not a party to such joint audit, may seek a revision of the formula by giving written notice to each other taxing municipality concerned and the taxpayer. Any such revision as may be agreed upon by the taxing municipalities, or as may be decreed by a court of competent jurisdiction in an action initiated by one or more taxing

authorities, shall apply only to gross receipts of the taxpayer received after the date of any such agreed revision or effective date of the judgment or order of any such court. [1982 c 169 § 2.]

Applicability—1982 c 169: See note following RCW 35.21.840.

35.21.850 Taxation of motor carriers of freight for hire—Limitation—Exceptions. No demand for a fee or tax or penalty shall be made by a city or town against a motor carrier of freight for hire on gross income derived from providing transportation services more than four years after the close of the year in which the same accrued except (1) against a taxpayer who has been guilty of fraud or misrepresentation of a material fact; or (2) where a taxpayer has executed a written waiver of such limitations; or (3) against a taxpayer who has not registered as required by the ordinance of the city or town imposing such tax or fee, provided this subsection shall not apply to a taxpayer who has registered in any city or town where the taxpayer maintains an office or terminal, or in the case of a taxpayer who has paid a license fee or tax based on such gross receipts to any city or town levying same which may reasonably be construed to be the principal market of the taxpayer but in which he maintains no office or terminal. [1982 c 169 § 3.]

Applicability—1982 c 169: See note following RCW 35.21.840.

35.21.860 Electricity, telephone, or natural gas business—Franchise fees prohibited—Exceptions. (1) No city or town may impose a franchise fee or any other fee or charge of whatever nature or description upon the light and power, telephone, or gas distribution businesses, as defined in RCW 82.16.010, except that (a) a tax authorized by RCW 35.21.865 may be imposed and (b) a fee may be charged to such businesses that recovers actual administrative expenses incurred by a city or town that are directly related to receiving and approving a permit, license, and franchise, to inspecting plans and construction, or to the preparation of a detailed statement pursuant to chapter 43.21C RCW.

(2) Subsection (1) of this section does not prohibit franchise fees imposed on an electrical energy, natural gas, or telephone business, by contract existing on April 20, 1982, with a city or town, for the duration of the contract, but the franchise fees shall be considered taxes for the purposes of the limitations established in RCW 35.21.865 and 35.21.870 to the extent the fees exceed the costs allowable under subsection (1) of this section. [1982 1st ex.s. c 49 § 2.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

35.21.865 Electricity, telephone, or natural gas business—Limitations on tax rate changes. No city or town may increase the rate of tax it imposes on the privilege of conducting an electrical energy, natural gas, or telephone business which increase applies to business activities occurring before the effective date of the increase, and no rate change may take effect before the

expiration of sixty days following the enactment of the ordinance establishing the change. [1982 1st ex.s. c 49 § 3.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

35.21.870 Electricity, telephone, or natural gas business—Tax limited to six percent—Exception. (1) Subject to the enactment into law of the 1982 amendment to RCW 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., no city or town may impose a tax on the privilege of conducting an electrical energy, natural gas, or telephone business at a rate which exceeds six percent unless the rate is approved by a majority of the voters of the city or town voting on the proposition.

(2) Subject to the enactment into law of the 1982 amendment to RCW 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., if a city or town is imposing a rate of tax under subsection (1) of this section in excess of six percent on April 20, 1982, the city or town shall decrease the rate to a rate of six percent or less by reducing the rate each year before November 1st by an amount equal to the lesser of (a) the weighted average increase in utility rates for the period beginning October 1st of the previous year and ending September 30th of the current year less the increase in the Seattle All Urban Consumer Price Index for the same period, multiplied by the then current tax rate or (b) one-fifth the difference between the tax rate on April 20, 1982, and six percent. If the amount determined under (b) of this subsection is less than the amount determined under (a) of this subsection, then one-half of the difference between the amounts determined under (a) and (b) of this subsection shall be added to the amount determined under (a) of this subsection in the following year.

As used in this subsection, "weighted average increase in utility rates" means the percentage increase in utility revenues for each utility expected from application of increases in rates based on the previous year's revenues and service areas within each city or town.

Nothing in this subsection prohibits a city or town from reducing its rates by amounts greater than the amounts required in this subsection.

Voter approved rate increases under subsection (1) of this section shall not be included in the computations under this subsection. [1982 1st ex.s. c 49 § 4.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Chapter 35.39

FISCAL—INVESTMENT OF FUNDS

Sections

35.39.041	Repealed.
35.39.060	Investment of pension funds.
35.39.070	City retirement system—Registration and custody of securities.
35.39.080	City retirement system—Investment advisory committee.
35.39.090	City retirement system—Investment advisory committee—Powers and duties.

- 35.39.100 City retirement system—Investment advisory committee—Employment of members.
 35.39.110 City retirement system—Investment advisory committee—Liability of members.

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

35.39.060 Investment of pension funds. Any city or town now or hereafter operating an employees' pension system with the approval of the board otherwise responsible for management of its respective funds may invest, reinvest, manage, contract, sell, or exchange investments acquired. Investments shall be made in accordance with investment policy duly established and published by the board. In discharging its duties under this section, the board shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; shall diversify the investments of the employees' pension system so as to minimize the risk of large losses; and shall act in accordance with the documents and instruments governing the employees' pension system, insofar as such documents and instruments are consistent with the provisions of this title. [1982 c 166 § 1.]

Effective date—1982 c 166: "This act shall take effect July 1, 1982." [1982 c 166 § 9.]

35.39.070 City retirement system—Registration and custody of securities. The city treasurer may cause any securities in which the city retirement system deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the city treasurer, the federal reserve system, the designee of the city treasurer, or at the election of the designee and upon approval of the city treasurer, the Pacific Securities Depository Trust Company Inc. or the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only on the direction of the retirement board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities shall be vested in the actual owners of the securities, and not in the nominee. [1982 c 166 § 2.]

Effective date—1982 c 166: See note following RCW 35.39.060.

35.39.080 City retirement system—Investment advisory committee. The retirement board of any city which is responsible for the management of an employees' retirement system established to provide retirement benefits for nonpublic safety employees shall appoint an investment advisory committee consisting of at least three members who are considered experienced and qualified in the field of investments. [1982 c 166 § 3.]

Effective date—1982 c 166: See note following RCW 35.39.060.

35.39.090 City retirement system—Investment advisory committee—Powers and duties. In addition to its other powers and duties, the investment advisory committee shall:

(1) Make recommendations as to general investment policies, practices, and procedures to the retirement board;

(2) Review the investment transactions of the retirement board annually;

(3) Prepare a written report of its activities during each fiscal year. Each report shall be submitted not more than thirty days after the end of each fiscal year to the retirement board and to any other person who has submitted a request therefor. [1982 c 166 § 4.]

Effective date—1982 c 166: See note following RCW 35.39.060.

35.39.100 City retirement system—Investment advisory committee—Employment of members. No advisory committee member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the retirement board. [1982 c 166 § 5.]

Effective date—1982 c 166: See note following RCW 35.39.060.

35.39.110 City retirement system—Investment advisory committee—Liability of members. No member of the investment advisory committee is liable for the negligence, default, or failure of any other person or other member of the committee to perform the duties of his or her office, and no member of the committee may be considered or held to be an insurer of the funds or assets of the retirement system nor shall any member be liable for actions performed with the exercise of reasonable diligence within the scope of his or her duly authorized activities as a member of the committee. [1982 c 166 § 6.]

Effective date—1982 c 166: See note following RCW 35.39.060.

Chapter 35.49

LOCAL IMPROVEMENTS—COLLECTION OF ASSESSMENTS

Sections

35.49.020 Installments—Number—Due date.

35.49.020 Installments—Number—Due date. In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract, and parcel of land or other property, or any portion thereof, may be paid during the thirty day period allowed for the payment of assessments without penalty or interest and that thereafter the sum remaining unpaid may be paid in equal annual principal installments or in equal annual installments of principal and interest. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvement are to run. The estimated interest rate may be stated in the ordinance confirming the

The purpose of this suit is to foreclose on your interest in the following described property:

[legal description]

which is located at:

[street address]

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

IMPORTANT NOTICE

If judgment is taken against you, either by default or after hearing by the court, your property will be sold at public auction.

You may prevent the sale by paying the amount of the judgment at any time prior to the sale.

If your property is sold, you may redeem the property at any time up to two years after the date of the sale, by paying the amount for which the property was sold, plus interest and costs of the sale.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

[signed] -----

Print or Type Name
() Plaintiff () Plaintiff's
Attorney
P.O. Address -----

Dated ----- Telephone Number -----
[1982 c 91 § 6.]

Severability—1982 c 91: See note following RCW 35.50.030.

35.50.230 Procedure—Parties and property included. In foreclosing local improvement assessment liens, all or any of the lots, tracts, or parcels of land or other property included in the assessment for one local improvement district or one utility local improvement district may be proceeded against in the same action. All persons owning or claiming to own or having or claiming to have any interest in or lien upon the lots, tracts, or parcels involved in the action and all persons unknown who may have an interest or claim of interest therein shall be made defendants thereto. [1982 c 91 § 3; 1967 c 52 § 19; 1965 c 7 § 35.50.230. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Severability—1982 c 91: See note following RCW 35.50.030.

Construction—Severability—1967 c 52: See notes following RCW 35.43.042.

35.50.240 Procedure—Pleadings and evidence. In foreclosing local improvement assessment liens, the assessment roll and the ordinance confirming it, or duly authenticated copies thereof shall be prima facie evidence of the regularity and legality of the proceedings connected therewith and the burden of proof shall be on the defendants. [1982 c 91 § 4; 1965 c 7 § 35.50.240. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Severability—1982 c 91: See note following RCW 35.50.030.

35.50.250 Procedure—Summons and service. In foreclosing local improvement assessments, summons and the service thereof shall be governed by the statutes governing the foreclosure of mortgages on real property. [1982 c 91 § 5; 1965 c 7 § 35.50.250. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Severability—1982 c 91: See note following RCW 35.50.030.
Commencement of actions: Chapter 4.28 RCW.

35.50.260 Procedure—Trial and judgment. In foreclosing local improvement assessments the action shall be tried to the court without a jury. If the parties interested in any particular lot, tract, or parcel default, the court may enter judgment of foreclosure and sale as to such parties and lots, tracts, or parcels and the action may proceed as to the remaining defendants and lots, tracts, or parcels. Judgment and order of sale may be entered as to any one or more separate lots, tracts, or parcels involved in the action and the court shall retain jurisdiction to others.

The judgment shall specify separately the amount of the installments with interest, penalty, and costs chargeable to each lot, tract, or parcel. The judgment shall have the effect of a separate judgment as to each lot, tract, or parcel described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the lots, tracts, or parcels therein described sold, and an order of sale shall issue pursuant thereto for the enforcement of the judgment.

In all other respects the trial, judgment and order of sale, and appeals to the supreme court or the court of appeals shall be governed by the statutes governing the foreclosure of mortgages on real property. [1982 c 91 § 7; 1971 c 81 § 93; 1965 c 7 § 35.50.260. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Severability—1982 c 91: See note following RCW 35.50.030.
Foreclosure of real estate mortgages and personal property liens: Chapter 61.12 RCW.

35.50.270 Procedure—Sale—Redemption—Deed. In foreclosing local improvement assessments, all sales shall be subject to the right of redemption within two years from the date of sale. In all other respects, the sale, redemption and issuance of deed shall be governed by the statutes governing the foreclosure of mortgages on real property and the terms "judgment debtor" and "successor in interest" as used in such statutes shall be held to include an owner or a vendee. [1982 c 91 § 8;

1965 c 7 § 35.50.270. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Severability—1982 c 91: See note following RCW 35.50.030.

Chapter 35.58

METROPOLITAN MUNICIPAL CORPORATIONS

Sections

35.58.020 Definitions.

35.58.020 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Metropolitan municipal corporation" means a municipal corporation of the state of Washington created pursuant to this chapter, or a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant to the provisions of chapter 36.56 RCW.

(2) "Metropolitan area" means the area contained within the boundaries of a metropolitan municipal corporation, or within the boundaries of an area proposed to be organized as such a corporation.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a metropolitan area.

(5) "Component county" means a county, all or part of which is included within a metropolitan area.

(6) "Central city" means the city with the largest population in a metropolitan area.

(7) "Central county" means the county containing the city with the largest population in a metropolitan area.

(8) "Special district" means any municipal corporation of the state of Washington other than a city, county, or metropolitan municipal corporation.

(9) "Metropolitan council" means the legislative body of a metropolitan municipal corporation, or the legislative body of a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant to the provisions of chapter 36.56 RCW.

(10) "City council" means the legislative body of any city or town.

(11) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of the office of financial management.

(12) "Metropolitan function" means any of the functions of government named in RCW 35.58.050.

(13) "Authorized metropolitan function" means a metropolitan function which a metropolitan municipal corporation shall have been authorized to perform in the manner provided in this chapter.

(14) "Metropolitan public transportation" or "metropolitan transportation" for the purposes of this chapter means the transportation of packages, passengers, and their incidental baggage by means other than by chartered bus, sightseeing bus, or any other motor vehicle not on an individual fare-paying basis, together with the

necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems: *Provided*, That nothing in this chapter shall be construed to prohibit a metropolitan municipal corporation from leasing its buses to private certified carriers; to prohibit a metropolitan municipal corporation from providing school bus service for the transportation of pupils; or to prohibit a metropolitan municipal corporation from chartering an electric streetcar on rails which it operates entirely within a city.

(15) "Pollution" has the meaning given in RCW 90.48.020. [1982 c 103 § 1; 1979 c 151 § 28; 1977 ex.s. c 277 § 12. Prior: 1974 ex.s. c 84 § 1; 1974 ex.s. c 70 § 2; 1971 ex.s. c 303 § 2; 1965 c 7 § 35.58.020; prior: 1957 c 213 § 2.]

Severability—**Construction**—**Effective date**—1977 ex.s. c 277: See RCW 36.56.900 and 36.56.910.

County assumption of metropolitan municipal corporation functions, etc.: Chapter 36.56 RCW.

Population determinations, office of financial management: Chapter 43.62 RCW.

Chapter 35.75

STREETS—BICYCLES—PATHS

Sections

35.75.060 Use of street and road funds for bicycle paths, lanes, routes and improvements authorized—Standards.

35.75.060 Use of street and road funds for bicycle paths, lanes, routes and improvements authorized—Standards. Any city or town may use any funds available for street or road construction, maintenance, or improvement for building, improving, and maintaining bicycle paths, lanes, roadways, and routes, and for improvements to make existing streets and roads more suitable and safe for bicycle traffic: *Provided*, That any such paths, lanes, roadways, routes, or streets for which any such street or road funds are expended shall be suitable for bicycle transportation purposes and not solely for recreation purposes. Bicycle facilities constructed or modified after June 10, 1982, shall meet or exceed the standards of the state department of transportation. [1982 c 55 § 1; 1974 ex.s. c 141 § 10.]

Chapter 35.92

MUNICIPAL UTILITIES

Sections

35.92.075 Indebtedness incurred on credit of expected utility revenues.

35.92.075 Indebtedness incurred on credit of expected utility revenues. A city or town may contract indebtedness and borrow money for a period not in excess of two years for any public utility purpose on the credit of the revenues expected from such public utility. [1982 c 24 § 1.]

Title 35A

OPTIONAL MUNICIPAL CODE

Chapters

35A.03 Incorporation as noncharter code city.

35A.12 Mayor-council plan of government.

*Camping club contracts—Nonapplicability of certain laws to—
Club not subdivision except under city, county powers: RCW
19.105.510.*

*Facilitating recovery from Mt. St. Helens eruption—Scope of local
government action: RCW 36.01.150.*

*Public bodies may retain collection agencies to collect public debts:
RCW 19.16.500.*

Chapter 35A.03

INCORPORATION AS NONCHARTER CODE CITY

Sections

35A.03.140 Pending final disposition of petition no other incorporation to be acted upon—Withdrawal or substitution—Action on petition for annexation authorized.

*Incorporation proceedings exempt from State Environmental Policy
Act: RCW 36.93.170, 43.21C.220.*

35A.03.140 Pending final disposition of petition no other incorporation to be acted upon—Withdrawal or substitution—Action on petition for annexation authorized. After the filing of any petition for incorporation with the county auditor, and pending final disposition as provided for in this chapter, no other petition for incorporation which embraces any of the territory included therein shall be acted upon by the county auditor or the county legislative authority, or by any other public official or body that might otherwise be empowered to receive or act upon such a petition: *Provided*, That any petition for incorporation may be withdrawn or a new petition embracing other or different boundaries or another plan of government may be substituted therefor, by a majority of the signers thereof, at any time before such petition has been certified by the county auditor to the county legislative authority in which case the same proceedings shall be taken as in the case of an original petition. A boundary review board, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing. [1982 c 220 § 4; 1967 ex.s. c 119 § 35A.03.140.]

Severability—1982 c 220: See note following RCW 36.93.100.

*Petition for annexation—Action without regard to priority of filing:
RCW 36.93.115.*

Chapter 35A.12

MAYOR-COUNCIL PLAN OF GOVERNMENT

Sections

35A.12.140 Adoption of codes by reference.

35A.12.140 Adoption of codes by reference. Ordinances may by reference adopt Washington state statutes and state, county, or city codes, regulations, or ordinances or any standard code of technical regulations, or portions thereof, including, for illustrative purposes but not limited to, fire codes and codes or ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing, and selling of meats and meat products for human consumption, the production, pasteurizing, and sale of milk and milk products, or other subjects, together with amendments thereof or additions thereto, on the subject of the ordinance. Such Washington state statutes or codes or other codes or compilations so adopted need not be published in a newspaper as provided in RCW 35A.12.160, but the adopting ordinance shall be so published and a copy of any such adopted statute, ordinance, or code, or portion thereof, with amendments or additions, if any, in the form in which it was adopted, shall be authenticated and recorded by the clerk along with the adopting ordinance. Not less than one copy of such statute, code, or compilation with amendments or additions, if any, in the form in which it was adopted, shall be filed in the office of the city clerk for use and examination by the public. While any such statute, code, or compilation is under consideration by the council prior to adoption, not less than one copy thereof shall be filed in the office of the city clerk for examination by the public. [1982 c 226 § 2; 1967 ex.s. c 119 § 35A.12.140.]

Effective date—1982 c 226: See note following RCW 35.21.180.

Title 36

COUNTIES

Chapters

36.01 General provisions.

36.18 Fees of county officers.

36.21 County assessor.

36.29 County treasurer.

36.32 County commissioners.

36.33 County funds.

36.57 County public transportation authority.

36.58 Solid waste disposal.

36.75 Roads and bridges—General provisions.

36.82 Roads and bridges—Funds—Budget.

36.86 Roads and bridges—Standards.

36.93 Local governmental organization—Boundaries—Review boards.

*Camping club contracts—Nonapplicability of certain laws to—
Club not subdivision except under city, county powers: RCW
19.105.510.*

*Public bodies may retain collection agencies to collect public debts:
RCW 19.16.500.*

*Redistricting by local governments and municipal corporations—
Census information for—Plan, prepared when, criteria for, hearing
on, request for review of, certification, remand—Sanctions
when review request frivolous: RCW 29.70.100.*

Chapter 36.01 GENERAL PROVISIONS

Sections

36.01.150 Facilitating recovery from Mt. St. Helens eruption—
Scope of local government action.

Disturbances at state penal facilities

contingency plans—Report of failure to support: RCW 72.02.170.

development of contingency plans—Scope—Local participation: RCW 72.02.150.

reimbursement to cities and counties for certain expenses incurred: RCW 72.72.050, 72.72.060.

utilization of outside law enforcement personnel—Scope: RCW 72.02.160.

36.01.150 Facilitating recovery from Mt. St. Helens eruption—Scope of local government action. All entities of local government and agencies thereof are authorized to take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) Cooperate with the state, state agencies, and the United States Army Corps of Engineers and other agencies of the federal government in planning dredge site selection and dredge spoils removal;

(2) Counties and cities may re-zone areas and sites as necessary to facilitate recovery operations;

(3) Counties may manage and maintain lands involved and the deposited dredge spoils; and

(4) Local governments may assist the Army Corps of Engineers in the dredging and dredge spoils deposit operations. [1982 c 7 § 3.]

Severability—1982 c 7: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 7 § 11.] This applies to RCW 36.01.150, 43.01.200, 43.01.210, 43.21A.500, 43.21C.500, 44.04.500, 75.20.300, 89.16.500, and 90.58.500.

Exemptions for emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section: RCW 43.21A.500, 43.21C.500, 89.16.500, and 90.58.500.

Facilitating recovery from Mt. St. Helens eruption—Legislative findings—Purpose: RCW 43.01.200.

Select committee for oversight of Mt. St. Helens recovery operations: RCW 44.04.500.

Scope of state agency action: RCW 43.01.210.

Chapter 36.18 FEES OF COUNTY OFFICERS

Sections

36.18.010 Auditor's fees.

36.18.010 Auditor's fees. County auditors shall collect the following fees for their official services: For filing each chattel mortgage, renewal affidavit, or conditional sale contract, and entering same as required by law, two dollars; for each assignment, modification, transfer, correction, or release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars;

For filing a release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars:

Provided, That said fee shall be paid at the time of filing the chattel mortgage, conditional sale contract, or miscellaneous instrument, and no charge shall be made when the release of any of the above instruments is filed;

For recording instruments, for the first page, legal size (eight and one-half by thirteen inches or less), three dollars; for each additional legal size page, one dollar; for indexing each name over two, fifty cents;

For marginal release of mortgage or lien, one dollar;

For preparing and certifying copies, for the first legal size page, two dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, fifty cents;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund, which five-dollar fee shall expire June 30, 1984, plus an additional five-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund which five-dollar fee shall expire June 30, 1987;

For searching records per hour, four dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: *Provided,* That there shall be a minimum fee of twenty-five dollars per plat;

For filing of miscellaneous records, not listed above, three dollars;

For making marginal notations on original recording when blanket assignment or release of instrument is filed for record, each notation, fifty cents;

For recording of miscellaneous records, not listed above, for first legal size page, three dollars; for each additional legal size page, one dollar. [1982 1st ex.s. c 15 § 7; 1982 c 4 § 12; 1977 ex.s. c 56 § 1; 1967 c 26 § 8; 1963 c 4 § 36.18.010. Prior: 1959 c 263 § 6; 1953 c 214 § 2; 1951 c 51 § 4; 1907 c 56 § 1, part, p 92; 1903 c 151 § 1, part, p 295; 1893 c 130 § 1, part, p 423; Code 1881 § 2086, part, p 358; 1869 p 369 § 3; 1865 p 94 § 1; part; 1863 p 391 § 1, part, p 394; 1861 p 34 § 1, part, p 37; 1854 p 368 § 1, part, p 371; RRS §§ 497, part, 4105.]

Expiration date—1982 1st ex.s. c 15: See note following RCW 28B.04.020.

Severability—1982 c 4: See RCW 43.121.910.

Family court funding, marriage license fee increase authorized: RCW 26.12.220.

Chapter 36.21 COUNTY ASSESSOR

Sections

36.21.080 New construction building permits—When property placed on assessment rolls—Reduction in value of destroyed property or property in disaster area.

36.21.080 New construction building permits—
When property placed on assessment rolls—Reduction in value of destroyed property or property in disaster area. (1) The county assessor is authorized to place any property under the provisions of RCW 36.21.040 through 36.21.080 on the assessment rolls for the purposes of tax levy up to August 31st of each year. The assessed valuation of property under the provisions of RCW 36.21.040 through 36.21.080 shall be considered as of July 31st of that year.

(2) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, or is in an area that has been declared a disaster area by the governor and has been reduced in value by more than twenty percent as a result of a natural disaster, the true cash value of such property shall be reduced for that year by an amount determined as follows, without necessity of taxpayer application under chapter 84.70 RCW:

(a) First take the true cash value of such taxable property before destruction or reduction in value and deduct therefrom the true cash value of the remaining property after destruction or reduction in value.

(b) Then divide any amount remaining by twelve and multiply the quotient by the number of months or major fraction thereof remaining after the date of the destruction or reduction in value of the property. [1982 1st ex.s. c 46 § 4; 1981 c 274 § 3; 1975 1st ex.s. c 120 § 1; 1974 ex.s. c 196 § 7; 1963 c 4 § 36.21.080. Prior: 1955 c 129 § 5.]

Severability—1974 ex.s. c 196: See note following RCW 84.56.020.

Destroyed property, reduction in value, abatement or refund of taxes: Chapter 84.70 RCW.

Chapter 36.29 COUNTY TREASURER

Sections

36.29.020 Custodian of moneys—Investment of funds not required for immediate expenditures, service fee.

36.29.020 Custodian of moneys—Investment of funds not required for immediate expenditures, service fee. The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depository. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer in savings or time accounts in banks, trust companies and mutual savings banks which are doing business in this state, up to the

amount of insurance afforded such accounts by the federal deposit insurance corporation, or in savings or time accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation, or in 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; in bankers' acceptances purchased on the secondary market, 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 or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapter 39.58 RCW: *Provided*, Five percent of the interest or earnings, with an annual maximum of fifty dollars, on any transactions authorized by each resolution of the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the interest or earnings become available to the governing body: *Provided further*, That if such investment service fee amounts to five dollars or less the county treasurer or other municipal corporation treasurer may waive such fee.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the federal deposit insurance corporation, or in savings or time accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the federal savings and loan insurance corporation, or in 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, in bankers' acceptances purchased on the secondary market, 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 or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of

chapter 39.58 RCW: *Provided*, That the county treasurer shall have the power to select the specific qualified financial institution in which said funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited. [1982 c 73 § 1; 1980 c 56 § 1; 1979 c 57 § 1; 1973 1st ex.s. c 140 § 1; 1969 ex.s. c 193 § 26; 1967 c 173 § 1; 1965 c 111 § 2; 1963 c 4 § 36.29.020. Prior: 1961 c 254 § 1; 1895 c 73 § 1; RRS § 4112.]

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

Liability of treasurers for losses on public deposits: RCW 39.58.140.

Mutual savings banks—Deposit or investment of public funds: RCW 32.12.100.

Chapter 36.32 COUNTY COMMISSIONERS

Sections

36.32.020	Commissioner districts.
36.32.040	Nomination by districts.
36.32.120	Powers of legislative authority.

Exemptions for emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section: RCW 43.21A.500, 43.21C.500, 89.16.500, 90.58.500.

Expediting flood control dredging operations in rivers affected by Mt. St. Helens eruption—Fish resource preservation—Expiration of section: RCW 75.20.300.

Redistricting by local governments and municipal corporations—Census information for—Plan, prepared when, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous: RCW 29.70.100.

36.32.020 Commissioner districts. The board of county commissioners of each county shall divide their county into three commissioner districts so that each district shall comprise as nearly as possible one-third of the population of the county: *Provided*, That the territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts.

However, the commissioners of any county composed entirely of islands and with a population of less than thirty-five thousand may divide their county into three commissioner districts without regard to population, except that if any single island is included in more than one district, the districts on such island shall comprise, as nearly as possible, equal populations.

The lines of the districts shall not be changed oftener than once in four years and only when a full board of commissioners is present. The districts shall be designated as districts numbered one, two and three. [1982 c 226 § 4; 1970 ex.s. c 58 § 1; 1963 c 4 § 36.32.020. Prior: 1893 c 39 § 2; 1890 p 317 §§ 1, 2; RRS § 4037.]

Effective date—1982 c 226: See note following RCW 35.21.180.

36.32.040 Nomination by districts. (1) Except as provided in subsection (2) of this section, the qualified electors of each county commissioner district, and they only, shall nominate from among their own number, candidates for the office of county commissioner of such commissioner district to be voted for at the following general election. Such candidates shall be nominated in the same manner as candidates for other county and district offices are nominated in all other respects.

(2) Where the commissioners of a county composed entirely of islands with a population of less than thirty-five thousand have chosen to divide the county into unequal-sized commissioner districts pursuant to the exception provided in RCW 36.32.020, the qualified electors of the entire county shall nominate from among their own number who reside within a commissioner district, candidates for the office of county commissioner of such commissioner district to be voted for at the following general election. Such candidates shall be nominated in the same manner as candidates for other county offices are nominated in all other respects. [1982 c 226 § 5; 1963 c 4 § 36.32.040. Prior: 1909 c 232 § 1; RRS § 4043.]

Effective date—1982 c 226: See note following RCW 35.21.180.

36.32.120 Powers of legislative authority. The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: *Provided*, That the legislative authority of a county may permit all moneys, assessments, and taxes belonging to or collected for the use of any county, including any amounts representing estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: *Provided further*, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the

name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: *Provided*, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: *Provided further*, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor: *Provided further*, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. The notice must set out a copy of the proposed regulations; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as justices of the peace. [1982 c 226 § 3; 1979 ex.s. c 136 § 35; 1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54 § 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867 p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

Effective date—1982 c 226: See note following RCW 35.21.180.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 36.33 COUNTY FUNDS

Sections

36.33.110 Repealed. (Effective July 1, 1983.)

Forest reserve funds, distribution of: RCW 28A.02.300 and 28A.02.310.

36.33.110 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 36.57 COUNTY PUBLIC TRANSPORTATION AUTHORITY

Sections

36.57.040 Powers and duties.

36.57.040 Powers and duties. Every county transportation authority created to perform the function of public transportation pursuant to RCW 36.57.020 shall have the following powers:

(1) To prepare, adopt, carry out, and amend a general comprehensive plan for public transportation service.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of any transportation facilities and properties, including terminal and parking facilities, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities.

(3) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any distinguishable class of users including, but not limited to senior citizens, handicapped persons, and students.

(4) If a county transit authority extends its transportation function to any area in which service is already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission under RCW 81.68.040, to acquire by purchase or condemnation at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation, or to contract with such person or corporation to continue to operate such service or any part thereof for time and upon such terms and conditions as provided by contract.

(5) (a) To contract with the United States or any agency thereof, any state or agency thereof, any metropolitan municipal corporation, any other county, city, special district, or governmental agency and any private person, firm, or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction, operation, or maintenance of transportation facilities and ambulance services: *Provided*, That

before the authority enters into any such contract for the provision of ambulance service, it shall submit to the voters a proposition authorizing such contracting authority, and a majority of those voting thereon shall have approved the proposition; and

(b) To contract with any governmental agency or with any private person, firm, or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands, and rights of way of all kinds which are owned, leased, or held by the other party and for the purpose of planning, constructing, or operating any facility or performing any service related to transportation which the county is authorized to operate or perform, on such terms as may be agreed upon by the contracting parties: *Provided*, That before any contract for the lease or operation of any transportation facilities shall be let to any private person, firm, or corporation, competitive bids shall first be called for and contracts awarded in accord with the procedures established in accord with RCW 36.32.240, 36.32.250, and 36.32.270.

(6) In addition to all other powers and duties, an authority shall have the power to own, construct, purchase, lease, add to, and maintain any real and personal property or property rights necessary for the conduct of the affairs of the authority. An authority may sell, lease, convey, or otherwise dispose of any authority real or personal property no longer necessary for the conduct of the affairs of the authority. An authority may enter into contracts to carry out the provisions of this section. [1982 c 10 § 6. Prior: 1981 c 319 § 2; 1981 c 25 § 3; 1974 ex.s. c 167 § 4.]

Severability—1982 c 10: See note following RCW 6.12.100.

Chapter 36.58

SOLID WASTE DISPOSAL

(Formerly: Garbage disposal)

Sections

36.58.080	County solid waste facilities—Exempt from municipal taxes—Charges to mitigate impacts.
36.58.100	Solid waste disposal district—Authorized—Boundaries—Powers—Governing body.
36.58.110	Solid waste disposal district—Establishment, modification, or dissolution—Hearing—Notice.
36.58.120	Solid waste disposal district—Establishment—Ordinance.
36.58.130	Solid waste disposal district—Powers—Restrictions—Fees.
36.58.140	Solid waste disposal district—Excise tax—Lien for delinquent taxes and penalties.
36.58.150	Solid waste disposal district—Excess levies authorized—General obligation and revenue bonds.

36.58.080 County solid waste facilities—Exempt from municipal taxes—Charges to mitigate impacts. County-owned solid waste facilities shall not be subject to any tax or excise imposed by any city or town. Cities or towns may charge counties to mitigate impacts directly attributable to the solid waste facility: *Provided*, That any city or town establishes that such charges are reasonably necessary to mitigate such impacts and that revenue generated from such charges is expended only to

mitigate such impacts. Impacts resulting from commercial and residential solid waste collection within any city or town shall not be considered to be directly attributable to the solid waste facility. [1982 c 175 § 8.]

Severability—1982 c 175: See note following RCW 36.58.100.

36.58.100 Solid waste disposal district—Authorized—Boundaries—Powers—Governing body. The legislative authority of any county other than a class AA county is authorized to establish one or more solid waste disposal districts within the county for the purpose of providing and funding solid waste disposal services. No solid waste disposal district may include any area within the corporate limits of a city or town unless the city or town governing body adopts a resolution approving inclusion of the area within its limits. The county legislative authority may modify the boundaries of the solid waste disposal district by the same procedure used to establish the district. A solid waste disposal district may be dissolved by the county legislative authority after holding a hearing as provided in RCW 36.58.110.

As used in RCW 36.58.100 through 36.58.150 the term "county" includes all counties other than class AA counties.

A solid waste disposal district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

A solid waste disposal district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute: *Provided*, That a solid waste disposal district shall not have the power of eminent domain.

The county legislative authority shall be the governing body of a solid waste disposal district. The electors of a solid waste disposal district shall be all registered voters residing within the district. [1982 c 175 § 1.]

Severability—1982 c 175: "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." [1982 c 175 § 9.]

36.58.110 Solid waste disposal district—Establishment, modification, or dissolution—Hearing—Notice. A county legislative authority proposing to establish a solid waste disposal district or to modify or dissolve an existing solid waste disposal district shall conduct a hearing at the time and place specified in a notice published at least once not less than ten days prior to the hearing in a newspaper of general circulation within the proposed solid waste disposal district. This notice shall be in addition to any other notice required by law to be published. Additional notice of such hearing may be given by mail, posting within the proposed solid waste disposal district, or in any manner local authorities deem necessary to notify affected persons. All hearings shall be public and the county legislative authority shall hear objections from any person affected by the formation, modification, or dissolution of the

solid waste disposal district and make such changes in the boundaries of the district or any other modifications that the county legislative authority deems necessary. [1982 c 175 § 2.]

Severability—1982 c 175: See note following RCW 36.58.100.

36.58.120 Solid waste disposal district—Establishment—Ordinance. No solid waste disposal district shall be established within a county unless the county legislative authority determines, following a hearing held pursuant to RCW 36.58.110, that it is in the public interest to form the district and the county legislative authority adopts an ordinance creating the solid waste disposal district and establishing its boundaries. [1982 c 175 § 3.]

Severability—1982 c 175: See note following RCW 36.58.100.

36.58.130 Solid waste disposal district—Powers—Restrictions—Fees. A solid waste disposal district may provide for all aspects of disposing of solid wastes. All moneys received by a solid waste disposal district shall be used exclusively for district purposes. Nothing in this chapter shall permit waste disposal districts to engage in the collection of residential or commercial garbage.

A solid waste disposal district shall perform all construction in excess of twenty-five thousand dollars by contract let pursuant to RCW 36.32.250.

A solid waste disposal district may collect disposal fees based exclusively upon utilization by weight or volume for accepting solid wastes at a disposal site or transfer station. The county may transfer moneys to a solid waste disposal district to be used for district purposes. [1982 c 175 § 4.]

Severability—1982 c 175: See note following RCW 36.58.100.

36.58.140 Solid waste disposal district—Excise tax—Lien for delinquent taxes and penalties. A solid waste disposal district may levy and collect an excise tax on the privilege of living in or operating a business in a solid waste disposal taxing district sufficient to fund its solid waste disposal activities: *Provided*, That any property which is producing commercial garbage shall be exempt if the owner is providing regular collection and disposal. The excise tax shall be billed and collected at times and in the manner fixed and determined by the solid waste disposal district. Penalties for failure to pay the tax on time may be provided for. A solid waste disposal district shall have a lien for delinquent taxes and penalties, plus an interest rate equal to the interest rate for delinquent property taxes. The lien shall be attached to each parcel of property in the district that is occupied by the person so taxed and shall be superior to all other liens and encumbrances except liens for property taxes.

The solid waste disposal district shall periodically certify the delinquencies to the county treasurer at which time the lien shall be attached. The lien shall be foreclosed in the same manner as the foreclosure of real property taxes. [1982 c 175 § 5.]

Severability—1982 c 175: See note following RCW 36.58.100.

36.58.150 Solid waste disposal district—Excess levies authorized—General obligation and revenue bonds. A solid waste disposal district shall not have the power to levy an annual levy without voter approval, but it shall have the power to levy a tax, in excess of the one percent limitation, upon the property within the district for a one year period to be used for operating or capital purposes whenever authorized by the electors of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

A solid waste disposal district may issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding general obligated indebtedness of the district, equal to three-eighths of one percent of the value of the taxable property within the district, and may provide for the retirement of the bonds by voter-approved bond retirement tax levies pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

A solid waste disposal district may issue revenue bonds to fund its activities. [1982 c 175 § 6.]

Severability—1982 c 175: See note following RCW 36.58.100.

Chapter 36.75

ROADS AND BRIDGES—GENERAL PROVISIONS

Sections

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| 36.75.020 | County roads—County legislative authority as agent of state—Standards. |
| 36.75.240 | Sidewalks and pedestrian paths or walks—Bicycle paths, lanes, routes, and roadways—Standards. |

36.75.020 County roads—County legislative authority as agent of state—Standards. All of the county roads in each of the several counties shall be established, laid out, constructed, altered, repaired, improved, and maintained by the legislative authority of the respective counties as agents of the state, or by private individuals or corporations who are allowed to perform such work under an agreement with the county legislative authority. Such work shall be done in accordance with adopted county standards under the supervision and direction of the county engineer. [1982 c 145 § 6; 1963 c 4 § 36.75-.020. Prior: 1943 c 82 § 1; 1937 c 187 § 2; Rem. Supp. 1943 § 6450-2.]

36.75.240 Sidewalks and pedestrian paths or walks—Bicycle paths, lanes, routes, and roadways—Standards. The boards may expend funds credited to the county road fund from any county or road district tax levied for the construction of county roads for the construction of sidewalks, bicycle paths, lanes, routes, and roadways, and pedestrian allocated paths or walks. Bicycle facilities constructed or modified after June 10, 1982, shall meet or exceed the standards of the state department of transportation. [1982 c 55 § 2; 1974 ex.s. c 141 § 7; 1963 c 4 § 36.75.240. Prior: 1937 c 187 § 25, part; RRS § 6450-25, part.]

Chapter 36.82

ROADS AND BRIDGES—FUNDS—BUDGET

Sections

- 36.82.110 Voluntary contributions for improvements to county roads—Standards.
- 36.82.130 Competitive bidding on purchase of equipment.
- 36.82.145 Bicycle paths, lanes, routes, etc., may be constructed, maintained or improved from county road fund—Standards.

36.82.110 Voluntary contributions for improvements to county roads—Standards. Upon voluntary contribution and payment by any person for the actual cost thereof, such person or legislative authority upon the approval of maps, plans, specifications and guaranty bonds as may be required, may place crushed rock gravel or other road building material or make improvements upon any county road. Such work shall be done in accordance with adopted county standards under the supervision of and direction of the county engineer. [1982 c 145 § 7; 1963 c 4 § 36.82.110. Prior: 1937 c 187 § 44, part; RRS § 6450-44, part.]

36.82.130 Competitive bidding on purchase of equipment. No items of equipment may be purchased by any county and paid for from the county road fund or equipment rental and revolving fund where the sales price thereof is in excess of three thousand five hundred dollars, except upon a call for bids published at least once a week for two consecutive weeks prior to the day of receiving and opening such bids. The call for bids shall specify the equipment to be purchased and the time and place when bids will be received and opened. Bids shall be publicly opened and read, and award shall be made to the lowest and best bidder: *Provided*, That in the event of any evidence of collusion as between bidders, or in the event that it is considered that an insufficient number of bids have been received, or for other good cause, the board may reject all bids and readvertise for bids. [1982 c 145 § 1; 1969 ex.s. c 182 § 13; 1963 c 4 § 36.82.130. Prior: 1937 c 187 § 47; RRS § 6450-47.]

36.82.145 Bicycle paths, lanes, routes, etc., may be constructed, maintained or improved from county road fund—Standards. Any funds deposited in the county road fund may be used for the construction, maintenance, or improvement of bicycle paths, lanes, routes, and roadways, and for improvements to make existing streets and roads more suitable and safe for bicycle traffic. Bicycle facilities constructed or modified after June 10, 1982, shall meet or exceed the standards of the state department of transportation. [1982 c 55 § 3; 1974 ex.s. c 141 § 8.]

Chapter 36.86

ROADS AND BRIDGES—STANDARDS

Sections

- 36.86.070 Classification of roads in accordance with designations under federal functional classification system.

- 36.86.080 Application of design standards to construction and reconstruction.

36.86.070 Classification of roads in accordance with designations under federal functional classification system. From time to time the legislative authority of each county shall classify and designate as the county primary road system such county roads as are designated rural minor collector, rural major collector, rural minor arterial, rural principal arterial, urban collector, urban minor arterial, and urban principal arterial in the federal functional classification system. [1982 c 145 § 2; 1963 c 4 § 36.86.070. Prior: 1949 c 165 § 1; Rem. Supp. 1949 § 6450-8h.]

36.86.080 Application of design standards to construction and reconstruction. Upon the adoption of uniform design standards the legislative authority of each county shall apply the same to all new construction within, and as far as practicable and feasible to reconstruction of old roads comprising, the county primary road system. No deviation from such design standards as to such primary system may be made without the approval of the state aid engineer for the department of transportation. [1982 c 145 § 3; 1963 c 4 § 36.86.080. Prior: 1949 c 165 § 4; Rem. Supp. 1949 § 6450-8k.]

Chapter 36.93

LOCAL GOVERNMENTAL ORGANIZATION—
BOUNDARIES—REVIEW BOARDS

Sections

- 36.93.090 Filing notice of proposed actions with board.
- 36.93.100 Review of proposed actions by board—Procedure.
- 36.93.115 Petition for annexation—Action without regard to priority of filing.
- 36.93.170 Factors to be considered by board—Incorporation proceedings exempt from State Environmental Policy Act.

36.93.090 Filing notice of proposed actions with board. Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file within one hundred eighty days a notice of intention with the board, which may review any such proposed actions pertaining to:

(1) The creation, dissolution, incorporation, disincorporation, consolidation, or change in the boundary of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water district pursuant to RCW 57.08.065 or chapter 57.40 RCW, as now or hereafter amended; or

(4) The establishment of or change in the boundaries of a mutual sewer and water system or separate water system by a sewer district pursuant to RCW 56.20.015 or chapter 56.36 RCW, as now or hereafter amended; or

(5) The extension of permanent water or sewer service outside of its existing corporate boundaries by a city, town, or special purpose district. [1982 c 10 § 7. Prior: 1981 c 332 § 9; 1981 c 45 § 2; 1979 ex.s. c 5 § 12; 1971 ex.s. c 127 § 1; 1969 ex.s. c 111 § 5; 1967 c 189 § 9.]

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 332: See note following RCW 35.13.025.

Legislative declaration—"District" defined—Severability—1981 c 45: See notes following RCW 56.36.060.

Severability—1979 ex.s. c 5: See RCW 36.96.920.

36.93.100 Review of proposed actions by board—

Procedure. The board shall review and approve, disapprove, or modify any of the actions set forth in RCW 36.93.090 when any of the following shall occur within sixty days of the filing of a notice of intention:

(1) The chairman or any three members of the boundary review board files a request for review;

(2) Any governmental unit affected files a request for review;

(3) A petition requesting review is filed and is signed by

(a) five percent of the registered voters residing within the area which is being considered for the proposed action (as determined by the boundary review board in its discretion subject to immediate review by writ of certiorari to the superior court); or

(b) an owner or owners of property consisting of five percent of the assessed valuation within such area.

If a period of sixty days shall elapse without the board's jurisdiction having been invoked as set forth in this section, the proposed action shall be deemed approved.

If a review concerning a proposed incorporation of a city or town is requested, the board shall make a finding as prescribed in RCW 36.93.150 within one hundred twenty days after the filing of such a request for review. If this period of one hundred twenty days shall elapse without the board making a finding as prescribed in RCW 36.93.150, the proposed incorporation shall be deemed approved. [1982 c 220 § 1; 1967 c 189 § 10.]

Severability—1982 c 220: "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." [1982 c 220 § 9.]

36.93.115 Petition for annexation—Action without regard to priority of filing. A boundary review board, county auditor, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing. [1982 c 220 § 5.]

Severability—1982 c 220: See note following RCW 36.93.100.

Action on annexation petition without regard to priority of filing: RCW 35.02.150, 35A.03.140.

36.93.170 Factors to be considered by board—Incorporation proceedings exempt from State Environmental Policy Act. In reaching a decision on a proposal or an alternative, the board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

(1) Population and territory; population density; land area and land uses; comprehensive use plans and zoning; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence of prime agricultural soils and agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities;

(2) Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The provisions of chapter 43.21C RCW, State Environmental Policy, shall not apply to incorporation proceedings covered by chapter 35.02 [RCW], Incorporation Proceedings, or 35.03 RCW, Incorporation of First Class Cities, or 35A.03 RCW, Incorporation as a Noncharter Code City, or 35A.04 RCW, Incorporation of Intercounty Area as a Noncharter Code City. [1982 c 220 § 2; 1979 ex.s. c 142 § 1; 1967 c 189 § 17.]

Severability—1982 c 220: See note following RCW 36.93.100.

Incorporation proceedings exempt from State Environmental Policy Act: RCW 43.21C.220.

Title 38

MILITIA AND MILITARY AFFAIRS

Chapters

38.12 Militia officers and advisory council.

38.52 Emergency services.

Chapter 38.12

MILITIA OFFICERS AND ADVISORY COUNCIL

Sections

38.12.040 Repealed.

38.12.050 Repealed.

38.12.200 Uniform allowance to officers.

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

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

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

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

**Chapter 38.52
EMERGENCY SERVICES**

Reviser's note—Sunset Act application: The department of emergency services is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.251. RCW 38.52.005, 38.52.006, and 38.52.030 are scheduled for future repeal under RCW 43.131.252.

Hazardous materials incidents, handling and liability: RCW 70.136.010 through 70.136.070.

**Title 39
PUBLIC CONTRACTS AND
INDEBTEDNESS**

Chapters

- 39.04 Public works.**
- 39.08 Contractor's bond.**
- 39.12 Prevailing wages on public works.**
- 39.24 Public purchase preferences.**
- 39.30 Contracts—Indebtedness limitations—Competitive bidding violations.**
- 39.35 Energy conservation in design of public facilities.**
- 39.44 Bonds—Form, terms of sale, payment, etc.**
- 39.50 Short-term obligations—Municipal corporations.**
- 39.88 Community redevelopment financing act.**

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

**Chapter 39.04
PUBLIC WORKS**

Sections	
39.04.010	Definitions.
39.04.020	Plans and specifications—Estimates—Publication—Emergencies.
39.04.150	State agencies authorized to establish small works roster—Procedure for soliciting quotations—Rules.

39.04.010 Definitions. The term state shall include the state of Washington and all departments, supervisors, commissioners and agencies thereof.

The term municipality shall include every city, county, town, district or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

The term public work shall include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein, but nothing herein shall apply to the construction, alteration, repair, or improvement of any municipal street railway system. All public works, including maintenance when performed by contract shall comply with the provisions of RCW 39.12.020.

The term contract shall mean a contract in writing for the execution of public work for a fixed or determinable amount duly awarded after advertisement and competitive bid. However, a contract which is awarded from a small works roster under the authority of RCW 39.04.150 need not be advertised.

Cost of superintendence, engineering, clerical and accounting service shall include all expenditures specially incurred for such service, and shall include a proportionate charge for the time of all salaried officers, engineers, clerks, accountants and employees of the state or municipality while engaged in such work or in keeping or preparing the estimates, accounts and records thereof. [1982 c 98 § 1; 1977 ex.s. c 177 § 1; 1923 c 183 § 1; RRS § 10322-1.]

39.04.020 Plans and specifications—Estimates—Publication—Emergencies. Whenever the state, or any municipality shall determine that any public work is necessary to be done it shall cause plans and/or specifications thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board or agency having by law the authority to require such work to be done. The plans, specifications, and estimates of cost shall be approved by the director, supervisor, commissioner, trustee, board, or agency and the original

draft or a certified copy filed in such office before further action is taken.

If the state, or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of twenty-five hundred dollars, or twenty-five thousand dollars if such work is let from a small works roster created pursuant to RCW 39.04.150, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done: *Provided*, That when any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. [1982 c 98 § 4; 1975 1st ex.s. c 230 § 2; 1967 c 70 § 1; 1923 c 183 § 2; RRS § 10322-2. Formerly RCW 39.04.020 and 39.04.030.]

39.04.150 State agencies authorized to establish small works roster—Procedure for soliciting quotations—Rules. (1) As used in this section, "agency" means the department of general administration, the department of fisheries, the department of game, and the state parks and recreation commission.

(2) In addition to any other power or authority that an agency may have, each agency, alone or in concert, may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster.

(3) The small works roster may make distinctions between contractors based on the geographic areas served and the nature of the work the contractor is qualified to perform. At least once every year, the agency shall advertise in a newspaper of general circulation the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(4) Construction, repair, or alteration projects estimated to cost less than twenty-five thousand dollars are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, the agency shall solicit at least five quotations, confirmed in writing, from contractors chosen by random number generated by computer from the contractors on the small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency is unable to solicit quotations from five qualified contractors on the small works roster for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations randomly from contractors on the small works roster in a manner which will equitably distribute the opportunity for these

contracts among contractors on the roster: *Provided*, That whenever possible, the agency shall invite at least one proposal from a minority contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request.

(5) The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount for bidding is contrary to public policy and is prohibited.

(6) The director of general administration shall adopt by rule a procedure to prequalify contractors for inclusion on the small works roster. Each agency shall follow the procedure adopted by the director of general administration. No agency shall be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

(7) An agency may adopt by rule procedures to implement this section which shall not be inconsistent with the procedures adopted by the director of the department of general administration pursuant to subsection (6) of this section. [1982 c 98 § 2.]

Director of general administration authorized to delegate to other state agencies under RCW 39.04.150: RCW 43.19.450.

Chapter 39.08 CONTRACTOR'S BOND

Sections

39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond.

39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond. Whenever any board, council, commission, trustees, or body acting for the state or any county or municipality or any public body shall contract with any person or corporation to do any work for the state, county, or municipality, or other public body, city, town, or district, such board, council, commission, trustees, or body shall require the person or persons with whom such contract is made to make, execute, and deliver to such board, council, commission, trustees, or body a good and sufficient bond, with two or more sureties, or with a surety company as surety, conditioned that such person or persons shall faithfully perform all the provisions of such contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, which bond in cases of cities and towns shall be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original contractor: *Provided, however*, That the provisions of RCW 39.08.010 through 39.08.030 shall not

apply to any money loaned or advanced to any such contractor, subcontractor or other person in the performance of any such work: *Provided further*, That on contracts of twenty-five thousand dollars or less, at the option of the contractor the respective public entity may, in lieu of the bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. [1982 c 98 § 5; 1975 1st ex.s. c 278 § 23; 1967 c 70 § 2; 1915 c 28 § 1; 1909 c 207 § 1; RRS § 1159. Prior: 1897 c 44 § 1; 1888 p 15 § 1.]

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

Liens for labor, material, taxes on public works—Reserve fund required: RCW 60.28.010.

State highway construction and maintenance, bond and surety requirements: Chapter 47.28 RCW.

Chapter 39.12

PREVAILING WAGES ON PUBLIC WORKS

Sections

39.12.020	Prevailing rate to be paid on public works and under public building service maintenance contracts—Posting of statement of intent.
39.12.040	Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment.
39.12.070	Fees authorized for approvals, certifications, and arbitrations.

39.12.020 Prevailing rate to be paid on public works and under public building service maintenance contracts—Posting of statement of intent. The hourly wages to be paid to laborers, workmen or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such labor is performed. For a contract in excess of ten thousand dollars, a contractor required to pay the prevailing rate of wage shall post in a location readily visible to workers at the job site: *Provided*, That on road construction, sewer line, pipeline, transmission line, street, or alley improvement projects for which no field office is needed or established, a contractor may post the prevailing rate of wage statement at the contractor's local office, gravel crushing, concrete, or asphalt batch plant as long as the contractor provides a copy of the wage statement to any employee on request:

(1) A copy of a statement of intent to pay prevailing wages approved by the industrial statistician of the department of labor and industries under RCW 39.12.040; and

(2) The address and telephone number of the industrial statistician of the department of labor and industries where a complaint or inquiry concerning prevailing wages may be made.

This chapter shall not apply to workmen or other persons regularly employed on monthly or per diem salary by the state, or any county, municipality, or political subdivision created by its laws. [1982 c 130 § 1; 1981 c 46 § 1; 1967 ex.s. c 14 § 1; 1945 c 63 § 1; Rem. Supp. 1945 § 10322–20.]

Prevailing wages determined by United States department of labor under resident employees law: RCW 39.16.005.

39.12.040 Statement of intent to pay prevailing wages, affidavit of wages paid—Duty of public agencies to require—Approval—Prerequisite to payment. Before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages shall include:

(1) The contractor's registration certificate number; and

(2) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to said officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer. [1982 c 130 § 2; 1981 c 46 § 2; 1975-'76 2nd ex.s. c 49 § 1; 1965 ex.s. c 133 § 3; 1945 c 63 § 4; Rem. Supp. 1945 § 10322–23.]

39.12.070 Fees authorized for approvals, certifications, and arbitrations. The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of

wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.04 RCW. The fees shall apply to all approvals, certifications, and arbitration requests made after the effective date of the rules. All fees shall be deposited in the general fund. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to carry out the activities specified in this section. [1982 1st ex.s. c 38 § 1.]

Chapter 39.24

PUBLIC PURCHASE PREFERENCES

(Formerly: Washington commodities to be used)

Sections

39.24.050 Purchase of paper products meeting certain specifications required.

39.24.050 Purchase of paper products meeting certain specifications required. A governmental unit shall, to the maximum extent economically feasible, purchase paper products which meet the specifications established by the department of general administration under RCW 43.19.538. [1982 c 61 § 3.]

Chapter 39.30

CONTRACTS—INDEBTEDNESS LIMITATIONS—COMPETITIVE BIDDING VIOLATIONS

Sections

39.30.050 Contracts to require use of paper products meeting certain specifications.

39.30.050 Contracts to require use of paper products meeting certain specifications. Any contract by a governmental unit shall require the use of paper products to the maximum extent economically feasible that meet the specifications established by the department of general administration under RCW 43.19.538. [1982 c 61 § 4.]

Chapter 39.35

ENERGY CONSERVATION IN DESIGN OF PUBLIC FACILITIES

Sections

39.35.010 Legislative finding.
39.35.020 Legislative declaration.
39.35.030 Definitions.
39.35.040 Facility design to include life-cycle cost analysis.

39.35.010 Legislative finding. The legislature hereby finds:

(1) That major publicly owned or leased facilities have a significant impact on our state's consumption of energy;

(2) That energy conservation practices and renewable energy systems adopted for the design, construction, and utilization of such facilities will have a beneficial effect on our overall supply of energy;

(3) That the cost of the energy consumed by such facilities over the life of the facilities shall be considered in addition to the initial cost of constructing such facilities;

(4) That the cost of energy is significant and major facility designs shall be based on the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of a major facility, of the energy consumed, and of the operation and maintenance of a major facility as they affect energy consumption; and

(5) That the use of energy systems in these facilities which utilize renewable resources such as solar energy, wood or wood waste, or other nonconventional fuels should be considered in the design of all publicly owned or leased facilities. [1982 c 159 § 1; 1975 1st ex.s. c 177 § 1.]

Applicability—1982 c 159: "This act does not apply to a major facility construction or renovation on which a life-cycle cost analysis is commenced under chapter 39.35 RCW before June 10, 1982." [1982 c 159 § 5.]

Rule-making authority—1982 c 159: "The department of general administration, in cooperation with the office and after consultation with affected agencies, shall promulgate such rules, under chapter 34.04 RCW, as are necessary and convenient to properly administer this act, by September 1, 1982." [1982 c 159 § 6.]

The above two annotations apply to the 1982 c 159 amendments to RCW 39.35.010, 39.35.020, 39.35.030, and 39.35.040.

39.35.020 Legislative declaration. The legislature declares that it is the public policy of this state to insure that energy conservation practices and renewable energy systems are employed in the design of major publicly owned or leased facilities and that the use of at least one renewable energy system is considered. To this end the legislature authorizes and directs that public agencies analyze the cost of energy consumption of each major facility to be planned and constructed or renovated after September 8, 1975. [1982 c 159 § 2; 1975 1st ex.s. c 177 § 2.]

Applicability—Rule-making authority—1982 c 159: See notes following RCW 39.35.010.

39.35.030 Definitions. For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Office" means the Washington state energy office.

(3) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(4) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(5) "Renovation" means additions, alterations, or repairs within any twelve-month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(6) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(7) "Life-cycle cost" means the initial cost and cost of operation of a major facility over its economic life. This shall be calculated as the initial cost plus the operation, maintenance, and energy costs over its economic life, reflecting anticipated increases in these costs discounted to present value at the current rate for borrowing public funds, as determined by the state finance committee. The energy costs used shall be those projected by the state energy office. The office shall update the projection of energy costs at least every two years.

(8) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

(a) The coordination and positioning of a major facility on its physical site;

(b) The amount and type of fenestration employed in a major facility;

(c) The amount of insulation incorporated into the design of a major facility;

(d) The variable occupancy and operating conditions of a major facility; and

(e) An energy-consumption analysis of a major facility.

(9) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(10) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy-consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives, at least one of which shall include renewable energy systems;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results.

(11) "Renewable energy systems" means methods of facility design and construction and types of equipment for the utilization of renewable energy sources including, but not limited to, active or passive solar space heating

or cooling, domestic solar water heating, windmills, waste heat, biomass and/or refuse-derived fuels, cogenerated energy, photovoltaic devices, and geothermal energy. [1982 c 159 § 3; 1975 1st ex.s. c 177 § 3.]

Applicability—Rule-making authority—1982 c 159: See notes following RCW 39.35.010.

39.35.040 Facility design to include life-cycle cost analysis. On and after September 8, 1975 whenever a public agency determines that any major facility is to be constructed or renovated such agency shall cause to be included in the design phase of such construction or renovation a provision that requires a life-cycle cost analysis to be prepared for such facility. Such analysis shall be approved by the agency prior to the commencement of actual construction or renovation. A public agency may accept the facility design if the agency is satisfied that the life-cycle cost analysis provides for an efficient energy system or systems based on the economic life of the major facility.

Nothing in this section prohibits the construction or renovation of major facilities which utilize renewable energy systems. [1982 c 159 § 4; 1975 1st ex.s. c 177 § 4.]

Applicability—Rule-making authority—1982 c 159: See notes following RCW 39.35.010.

Chapter 39.44

BONDS—FORM, TERMS OF SALE, PAYMENT, ETC.

Sections

39.44.030	Effective rate of interest—Sale—Notice—Bids.
39.44.900	Validation—Savings—1982 c 216.

39.44.030 Effective rate of interest—Sale—Notice—Bids. Before any general obligation bonds issued by any county, city, town, school district, port district, or metropolitan park district shall be offered for sale the governing body issuing such bonds shall designate the maximum effective rate of interest said bonds shall bear, which shall not be in excess of that allowed by law. Except as provided in *section 94, chapter 232, Laws of 1969 ex. sess. and RCW 39.44.900, when a vote of the electors shall have been taken on the question of the issuance of such bonds and the proposition submitted to the electors shall have specified the maximum effective rate of interest to be borne by said bonds, no increase of such maximum effective rate of interest shall be made by the governing body. All such bonds, including refunding bonds, shall be sold at public sale, and a notice calling for bids for the purchase of said bonds shall be published once a week for two consecutive weeks in the official newspaper of the issuer, and such other notice shall be given as the governing body may direct; or, if there be no official newspaper of the issuer, the publication shall be made in a newspaper of general circulation in the county in which the issuer is located. Such notice shall specify a place, and designate a day and hour, subsequent to the date of the last publication

and at least ten days subsequent to the date of the first publication thereof when sealed bids will be received and publicly opened for the purchase of said bonds. The notice shall specify the maturity schedule and the maximum effective rate of interest such bonds shall bear, and shall require bidders to submit a bid specifying (1) the lowest rate or rates of interest and premium, if any, above par, at which such bidder will purchase said bonds; or (2) the lowest rate or rates of interest at which the bidder will purchase said bonds at par. The bonds shall be sold to the bidder offering to purchase the same at the lowest net interest cost to the issuer over the life thereof, subject to the right of the governing body to reject any and all bids. None of such bonds shall be sold at less than par and accrued interest, nor shall any discount or commission be allowed or paid to the purchaser or purchasers of such bonds. All bids shall be sealed and, except the bid of the state of Washington, if one is received, shall be accompanied by a good faith deposit of five percent, either in cash or by cashier's or certified check made payable to the treasurer of the issuer, of the amount of the principal par value of such bonds which shall be promptly returned if the bid is not accepted; and if the successful bidder shall fail or neglect to complete the purchase of said bonds by the time specified in the notice of sale for the delivery of said bonds, the amount of his deposit shall be forfeited to the issuer, and in that event the governing body may accept the bid of the one making the next best bid if such bidder agrees to purchase said bonds under the terms provided in his bid, or if all bids be rejected such governing body, if it decides to reoffer such bonds for sale, shall readvertise said bonds for sale in the same manner as herein provided for the original advertisement. If there be two or more equal bids and such bids are the best bids received, the governing body shall determine by lot which bid will be accepted. [1982 c 216 § 11; 1981 c 156 § 14; 1970 ex.s. c 56 § 58; 1969 ex.s. c 232 § 93; 1965 ex.s. c 74 § 3; 1961 c 141 § 2; 1923 c 151 § 3; RRS § 5583-3. Formerly RCW 39.44.030 through 39.44.050.]

***Reviser's note:** "section 94, chapter 232, Laws of 1969 ex. sess." referred to herein appears in the footnote to this section. (See "Validation—Saving—1969 ex.s. c 232" below.)

Effective date—1970 ex.s. c 56: Due to the emergency clause contained in section 109, the effective date of 1970 ex.s. c 56 was February 23, 1970.

Purpose—1970 ex.s. c 56: "Because market conditions are such that the state, state agencies, state colleges and universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state are finding it increasingly difficult and, in some cases, impossible to market bond issues and all other obligations, at the maximum permissible rate of interest payable on such bonds and obligations, it is the purpose of this 1970 amendatory act to remove all maximum rates of interest payable on such bonds and obligations." [1970 ex.s. c 56 § 1; 1969 ex.s. c 232 § 1.] This applies to RCW 8.12.400, 14.08.112, 14.08.114, 17.28.260, 27.12.223, 28A.51.180, 28A.52.050, 28A.52.055, 28B.10.310, 28B.10.315, 28B.10.325, 28B.20.396, 28B.20.715, 28B.20.730, 28B.30.730, 28B.30.760, 28B.40.730, 28B.40.770, 28B.50.350, 28B.50.390, 35.41.030, 35.45.020, 35.45.130, 35.45.150, 35.58.450, 35.58.460, 35.58.470, 35.61.170, 35.67.080, 35.67.140, 35.81.100, 35.82.140, 35.89.020, 35.92.080, 35.92.100, 36.62.070, 36.67.530, 36.67.560, 36.76.010, 36.76.090, 36.76.140, 36.88.200, 37.16.020, 37.16.030, 39.44.030, 39.48.010, 39.52.020, 39.56.020,

43.21.340, 47.56.140, 47.57.550, 47.58.040, 47.60.060, 52.16.061, 52.16.100, 52.20.060, 53.34.030, 53.34.040, 53.34.060, 53.39.030, 53.40.030, 53.40.110, 53.40.130, 53.44.020, 54.24.018, 54.24.060, 54.24.090, 56.16.040, 56.16.060, 56.16.080, 57.20.010, 57.20.020, 70.44.060, 70.44.120, 85.05.300, 85.05.480, 85.06.270, 85.06.321, 85.07.070, 85.16.180, 86.09.580, 86.09.598, 87.03.200, 87.19.030, 87.22.150, 87.22.160, 87.28.020, 87.28.070, 88.32.140, 89.30.418, 89.30.520, 91.04.490, and 91.08.480.

Validation—Saving—1969 ex.s. c 232: "All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to the effective date of this amendatory act or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to the effective date of this amendatory act, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are sold and issued with an interest rate or rates not greater than those permitted by the applicable provision of this amendatory act." [1969 ex.s. c 232 § 94.]

Severability—1969 ex.s. c 232: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this 1969 amendatory act, such judgment or decree shall not affect, impair or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this act so adjudged to be invalid or unconstitutional." [1969 ex.s. c 232 § 95.]

39.44.900 Validation—Savings—1982 c 216.

All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to April 3, 1982, or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of the issuer taken prior to April 3, 1982, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are or were sold and issued in accordance with the sale provisions and with an interest rate or rates not greater than those permitted by the applicable provision of *this amendatory act, and any such bonds heretofore sold are declared valid obligations of the issuer. This section shall not apply to bonds having a total value exceeding fifteen million dollars. [1982 c 216 § 12.]

***Reviser's note:** "this amendatory act" [1982 c 216] consists of the 1982 amendments to RCW 39.44.030 and 43.80.110 and the enactment of RCW 39.44.900 and chapter 39.50 RCW.

Chapter 39.50

SHORT-TERM OBLIGATIONS—MUNICIPAL CORPORATIONS

Sections

39.50.010	Definitions.
39.50.020	Short-term obligations authorized.
39.50.030	Issuance of short-term obligations—Procedure— Interest rate—Contracts for future sale.
39.50.040	Refunding and renewal of short-term obligations.
39.50.050	Short-term obligations—Security.
39.50.060	Nonvoted general indebtedness.
39.50.070	Funds for payment of principal and interest.
39.50.900	Chapter cumulative—Applicability to joint operating agencies.

39.50.010 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Governing body" means the legislative authority of a municipal corporation by whatever name designated;

(2) "Local improvement district" includes local improvement districts, utility local improvement districts, road improvement districts, and other improvement districts that a municipal corporation is authorized by law to establish;

(3) "Municipal corporation" means any city, town, county, water district, sewer district, school district, port district, public utility district, metropolitan municipal corporation, public transportation benefit area, park and recreation district, irrigation district, or fire protection district or any other municipal or quasi municipal corporation described as such by statute, except joint operating agencies under chapter 43.52 RCW;

(4) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the municipal corporation exercising any power under this chapter takes formal action and adopts legislative provisions and matters of some permanency; and

(5) "Short-term obligations" are warrants, notes, or other evidences of indebtedness, except bonds, which mature in not to exceed three years after the date thereof. [1982 c 216 § 2.]

39.50.020 Short-term obligations authorized. Subject to any applicable budget requirements, any municipal corporation may borrow money and issue short-term obligations as provided in this chapter, the proceeds of which may be used for any lawful purpose of the municipal corporation. Short-term obligations may be issued in anticipation of the receipt of revenues, taxes, or grants or the sale of (1) general obligation bonds if the bonds may be issued without the assent of the voters or if previously ratified by the voters; (2) revenue bonds if the bonds have been authorized by ordinance; (3) local improvement district bonds if the bonds have been authorized by ordinance. These short-term obligations shall be repaid out of money derived from the source or sources in anticipation of which they were issued or from any money otherwise legally available for this purpose. [1982 c 216 § 3.]

39.50.030 Issuance of short-term obligations—Procedure—Interest rate—Contracts for future sale. The issuance of short-term obligations shall be authorized by ordinance of the governing body which ordinance shall fix the maximum amount of the obligations to be issued or, if applicable, the maximum amount which may be outstanding at any time, the maximum term and interest rate to be borne thereby, the manner of sale, maximum price, form, terms, conditions, and the covenants thereof: *Provided*, That general obligation short-term obligations shall be sold at not less than the par value thereof. The ordinance may provide for designation and employment of a paying agent for the short-

term obligations and may authorize a designated representative of the municipal corporation to act on its behalf and subject to the terms of the ordinance in selling and delivering short-term obligations authorized and fixing the dates, price, interest rates, and other details as may be specified in the ordinance. Short-term obligations issued under this section shall bear such fixed or variable rate or rates of interest as the governing body considers to be in the best interests of the municipal corporation. Variable rates of interest may be fixed in relationship to such standard or index as the governing body designates.

The governing body may make contracts for the future sale of short-term obligations pursuant to which the purchasers are committed to purchase the short-term obligations from time to time on the terms and conditions stated in the contract, and may pay such consideration as it considers proper for the commitments. Short-term obligations issued pursuant to these contracts shall mature no later than three years after the date of the contract, but obligations issued in anticipation of the receipt of taxes shall be paid within six months from the end of the fiscal year in which they are issued. [1982 c 216 § 4.]

39.50.040 Refunding and renewal of short-term obligations. Short-term obligations may, from time to time, be renewed or refunded by the issuance of short-term obligations and may be funded by the issuance of revenue or general obligation bonds. Short-term obligations, refunding short-term obligations, or renewals of short-term obligations payable from sources other than taxes shall not be outstanding for a total elapsed time of more than three years. Short-term obligations payable from taxes shall not be renewed or refunded to a date later than six months from the end of the fiscal year in which the original short-term obligation was issued. [1982 c 216 § 5.]

39.50.050 Short-term obligations—Security. Short-term obligations issued in anticipation of the receipt of taxes or the sale of general obligation bonds and the interest thereon shall be secured by the full faith, credit, taxing power, and resources of the municipal corporation. Short-term obligations issued in anticipation of the sale of revenue or local improvement district bonds and the interest thereon may be secured in the same manner as the revenue and local improvement district bonds in anticipation of which the obligations are issued and by an undertaking to issue the bonds. Short-term obligations issued in anticipation of grants, loans, or other sources of money shall be secured in the manner set forth in the ordinance authorizing their issuance. [1982 c 216 § 6.]

39.50.060 Nonvoted general indebtedness. A municipal corporation may incur nonvoted general indebtedness under this chapter up to an amount which, when added to all other authorized and outstanding nonvoted indebtedness of the municipal corporation, is equal to the

maximum amount of indebtedness the municipal corporation is otherwise permitted to incur without a vote of the electors. [1982 c 216 § 7.]

39.50.070 Funds for payment of principal and interest. For the purpose of providing funds for the payment of principal of and interest on short-term obligations, the governing body may authorize the creation of a special fund or funds and provide for the payment from authorized sources to such funds of amounts sufficient to meet principal and interest requirements. [1982 c 216 § 8.]

39.50.900 Chapter cumulative—Applicability to joint operating agencies. The authority granted by this chapter shall be in addition and supplemental to any authority previously granted and shall not limit any other powers or authority previously granted to any municipal corporation. The authority granted by this chapter to public utility districts organized under Title 54 RCW shall not extend to joint operating agencies organized under chapter 43.52 RCW. [1982 c 216 § 9.]

Chapter 39.88

COMMUNITY REDEVELOPMENT FINANCING ACT

Sections

39.88.010	Declaration.
39.88.020	Definitions.
39.88.030	Authority—Limitations.
39.88.040	Procedure for adoption of public improvement.
39.88.050	Notice of public improvement.
39.88.060	Disagreements between taxing districts.
39.88.070	Apportionment of taxes.
39.88.080	Application of tax allocation revenues.
39.88.090	General obligation bonds.
39.88.100	Tax allocation bonds.
39.88.110	Legal investments.
39.88.120	Notice to state.
39.88.130	Conclusive presumption of validity.
39.88.900	Supplemental nature of chapter.
39.88.905	Short title.
39.88.910	Captions not part of law—1982 1st ex.s. c 42.
39.88.915	Severability—1982 1st ex.s. c 42.

Reviser's note: Senate Joint Resolution No. 143, amending the state Constitution to authorize the use of increased property tax revenues resulting from a public improvement for the purpose of paying obligations incurred for the improvement, was enacted during the 1982 first extraordinary session of the legislature and is to be submitted to the voters at the November, 1982 state general election.

39.88.010 Declaration. It is declared to be the public policy of the state of Washington to promote and facilitate the orderly development and economic stability of its urban areas. The provision of adequate government services and the creation of employment opportunities for the citizens within urban areas depends upon the economic growth and the strength of their tax base. The construction of necessary public improvements in accordance with local community planning will encourage investment in job-producing private development and will expand the public tax base.

It is the purpose of this chapter to allocate a portion of regular property taxes for limited periods of time to assist in the financing of public improvements which are needed to encourage private development of urban areas; to prevent or arrest the decay of urban areas due to the inability of existing financing methods to provide needed public improvements; to encourage local taxing districts to cooperate in the allocation of future tax revenues arising in urban areas in order to facilitate the long-term growth of their common tax base; and to encourage private investment within urban areas. [1982 1st ex.s. c 42 § 2.]

39.88.020 Definitions. As used in this chapter the following terms have the following meanings unless a different meaning is clearly indicated by the context:

(1) "Apportionment district" means the geographic area, within an urban area, from which regular property taxes are to be apportioned to finance a public improvement contained therein.

(2) "Assessed value of real property" means the valuation of real property as placed on the last completed assessment roll of the county.

(3) "City" means any city or town.

(4) "Ordinance" means any appropriate method of taking a legislative action by a county or city, whether known as a statute, resolution, ordinance, or otherwise.

(5) "Public improvement" means an undertaking to provide public facilities in an urban area which the sponsor has authority to provide.

(6) "Public improvement costs" means the costs of design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement, and installation of the public improvement; costs of relocation, maintenance, and operation of property pending construction of the public improvement; costs of utilities relocated as a result of the public improvement; costs of financing, including interest during construction, legal and other professional services, taxes, and insurance; costs incurred by the assessor to revalue real property for the purpose of determining the tax allocation base value that are in excess of costs incurred by the assessor in accordance with his revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; and administrative costs reasonably necessary and related to these costs. These costs may include costs incurred prior to the adoption of the public improvement ordinance, but subsequent to July 10, 1982.

(7) "Public improvement ordinance" means the ordinance passed under RCW 39.88.040(4).

(8) "Regular property taxes" means regular property taxes as now or hereafter defined in RCW 84.04.140, except regular property taxes levied by port districts or public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness.

(9) "Sponsor" means any county or city initiating and undertaking a public improvement.

(10) "Tax allocation base value of real property" means the true and fair value of real property within an

apportionment district for the year in which the apportionment district was established.

(11) "Tax allocation bonds" means any bonds, notes, or other obligations issued by a sponsor pursuant to *section 10 of this act.

(12) "Tax allocation revenues" means those tax revenues allocated to a sponsor under RCW 39.88.070(1)(b).

(13) "Taxing districts" means any governmental entity which levies or has levied for it regular property taxes upon real property located within a proposed or approved apportionment district.

(14) "Value of taxable property" means value of taxable property as defined in RCW 39.36.015.

(15) "Urban area" means an area in a city or located outside of a city that is characterized by intensive use of the land for the location of structures and receiving such urban services as sewers, water, and other public utilities and services normally associated with urbanized areas. Not more than twenty-five percent of the area within the urban area proposed apportionment district may be vacant land. [1982 1st ex.s. c 42 § 3.]

***Reviser's note:** "section 10 of this act," codified herein as RCW 39.88.090, deals with general obligation bonds. Tax allocation bonds are the subject of section 11 (RCW 39.88.100), which was apparently intended. The error arose in the renumbering of sections in the en-grossing of amendments to Second Substitute Senate Bill No. 4603 [1982 1st ex.s. c 42].

39.88.030 Authority—Limitations. (1) Only public improvements which are determined by the legislative authority of the sponsor to meet the following criteria are eligible to be financed under this chapter:

(a) The public improvement is located within an urban area;

(b) The public improvement will encourage private development within the apportionment district;

(c) The public improvement will increase the fair market value of the real property located within the apportionment district;

(d) The private development which is anticipated to occur within the apportionment district as a result of the public improvement is consistent with an existing comprehensive land use plan and approved growth policies of the jurisdiction within which it is located;

(e) A public improvement located within a city has been approved by the legislative authority of such city; and

(f) A public improvement located within an urban area in an unincorporated area has been approved by the legislative authority of the county within whose boundaries the area lies.

(2) Apportionment of regular property tax revenues to finance the public improvements is subject to the following limitations:

(a) No apportionment of regular property tax revenues may take place within a previously established apportionment district where regular property taxes are still apportioned to finance public improvements without the concurrence of the sponsor which established the district;

(b) No apportionment district may be established which includes any geographic area included within a previously established apportionment district which has outstanding bonds payable in whole or in part from tax allocation revenues;

(c) The total amount of outstanding bonds payable in whole or in part from tax allocation revenues arising from property located within a city shall not exceed two percent of the value of taxable property within the city, and the total amount of outstanding bonds payable in whole or in part from tax allocation revenues arising from property located within the unincorporated areas of a county shall not exceed two percent of the value of taxable property within the entire unincorporated area of the county; and

(d) No taxes other than regular property taxes may be apportioned under this chapter.

(3) Public improvements may be undertaken and coordinated with other programs or efforts undertaken by the sponsor or others and may be funded in whole or in part from sources other than those provided by this chapter. [1982 1st ex.s. c 42 § 4.]

39.88.040 Procedure for adoption of public improvement. Public improvements funded by tax allocation revenues may only be located within an urban area. In order to secure an allocation of regular property taxes to finance a public improvement, a sponsor shall:

(1) Propose by ordinance a plan for the public improvement which includes a description of the contemplated public improvement, the estimated cost thereof, the boundaries of the apportionment district, the estimated period during which tax revenue apportionment is contemplated, and the ways in which the sponsor plans to use tax allocation revenues to finance the public improvement, and which sets at least three public hearings thereon before the legislative authority of the sponsor or a committee thereof: *Provided*, That public hearings for the public improvement that is undertaken in combination or coordination by two or more sponsors may be held jointly; and public hearings, held before the legislative authority or a committee of a majority thereof may be combined with public hearings held for other purposes;

(2) At least fifteen days in advance of the hearing:

(a) Deliver notice of the hearing to all taxing districts, the county treasurer, and the county assessor, which notice includes a map or drawing showing the location of the contemplated public improvement and the boundaries of the proposed apportionment district, a brief description of the public improvement, the estimated cost thereof, the anticipated increase in property values within the apportionment district, the location of the sponsor's principal business office where it will maintain information concerning the public improvement for public inspection, and the date and place of hearing; and

(b) Post notice in at least six public places located in the proposed apportionment district and publish notice in a legal newspaper of general circulation within the sponsor's jurisdiction briefly describing the public improvement, the proposed apportionment, the boundaries

of the proposed apportionment district, the location where additional information concerning the public improvement may be inspected, and the date and place of hearing;

(3) At the time and place fixed for the hearing under subsection (1) of this section, and at such times to which the hearing may be adjourned, receive and consider all statements and materials as may be submitted, and objections and letters filed before or within ten days thereafter;

(4) Within one hundred twenty days after completion of the public hearings, pass an ordinance establishing the apportionment district and authorizing the proposed public improvement, including any modifications which in the sponsor's opinion the hearings indicated should be made, which includes the boundaries of the apportionment district, a description of the public improvement, the estimated cost thereof, the portion of the estimated cost thereof to be reimbursed from tax allocation revenues, the estimated time during which regular property taxes are to be apportioned, the date upon which apportionment of the regular property taxes will commence, and a finding that the public improvement meets the conditions of RCW 39.88.030. [1982 1st ex.s. c 42 § 5.]

39.88.050 Notice of public improvement. Within fifteen days after enactment of the public improvement ordinance, the sponsor shall publish notice in a legal newspaper circulated within the designated apportionment district summarizing the final public improvement, including a brief description of the public improvement, the boundaries of the apportionment district, and the location where the public improvement ordinance and any other information concerning the public improvement may be inspected.

Within fifteen days after enactment of the public improvement ordinance, the sponsor shall deliver a certified copy thereof to each taxing district, the county treasurer, and the county assessor. [1982 1st ex.s. c 42 § 6.]

39.88.060 Disagreements between taxing districts. (1) Any taxing district that objects to the apportionment district, the duration of the apportionment, the manner of apportionment, or the propriety of cost items established by the public improvement ordinance of the sponsor may, within thirty days after receipt of the ordinance, petition for review thereof by the state board of tax appeals. The state board of tax appeals shall meet within a reasonable time, hear all the evidence presented by the parties on matters in dispute, and determine the issues upon the evidence as may be presented to it at the hearing. The board may approve or deny the public improvement ordinance as enacted or may grant approval conditioned upon modification of the ordinance by the sponsor. The decision by the state board of tax appeals shall be final and conclusive but shall not preclude modification or discontinuation of the public improvement.

(2) If the sponsor modifies the public improvement ordinance as directed by the board, the public improvement ordinance shall be effective without further hearings or findings and shall not be subject to any further

appeal. If the sponsor modifies the public improvement ordinance in a manner other than as directed by the board, the public improvement ordinance shall be subject to the procedures established pursuant to RCW 39.88.040 and 39.88.050. [1982 1st ex.s. c 42 § 7.]

39.88.070 Apportionment of taxes. (1) Upon the date established in the public improvement ordinance, but not sooner than the first day of the calendar year following the passage of the ordinance, the regular property taxes levied upon the assessed value of real property within the apportionment district shall be divided as follows:

(a) That portion of the regular property taxes produced by the rate of tax levied each year by or for each of the taxing districts upon the tax allocation base value of real property, or upon the assessed value of real property in each year, whichever is smaller, shall be allocated to and paid to the respective taxing districts; and

(b) That portion of the regular property taxes levied each year by or for each of the taxing districts upon the assessed value of real property within an apportionment district which is in excess of the tax allocation base value of real property shall be allocated and paid to the sponsor, or the sponsor's designated agent, until all public improvement costs to be paid from the tax allocation revenues have been paid, except that the sponsor may agree to receive less than the full amount of such portion as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of the taxes shall be allocated to the respective taxing districts as the sponsor and the taxing districts may agree.

(2) The county assessor shall revalue the real property within the apportionment district for the purpose of determining the tax allocation base value for the apportionment district and shall certify to the sponsor the tax allocation base value as soon as practicable after the assessor receives notice of the public improvement ordinance and shall certify to the sponsor the total assessed value of real property within thirty days after the property values for each succeeding year have been established, except that the assessed value of state-assessed real property within the apportionment district shall be certified as soon as the values are provided to the assessor by the department of revenue. Nothing in this section authorizes revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW.

(3) The date upon which the apportionment district was established shall be considered the date upon which the public improvement ordinance was enacted by the sponsor.

(4) The apportionment of regular property taxes under this section shall cease when tax allocation revenues are no longer necessary or obligated to pay public improvement costs or to pay principal of and interest on bonds issued to finance public improvement costs and payable in whole or in part from tax allocation revenues. At the time of termination of the apportionment, any

excess money and any earnings thereon held by the sponsor shall be returned to the county treasurer and distributed to the taxing districts which were subject to the allocation in proportion to their regular property tax levies due for the year in which the funds are returned. [1982 1st ex.s. c 42 § 8.]

39.88.080 Application of tax allocation revenues. Tax allocation revenues may be applied as follows:

- (1) To pay public improvement costs;
- (2) To pay principal of and interest on, and to fund any necessary reserves for, tax allocation bonds;
- (3) To pay into bond funds established to pay the principal of and interest on general obligation bonds issued pursuant to law to finance public facilities that are specified in the public improvement ordinance and constructed following the establishment of and within the apportionment district; or
- (4) To pay any combination of the foregoing. [1982 1st ex.s. c 42 § 9.]

39.88.090 General obligation bonds. General obligation bonds which are issued to finance public facilities that are specified in the public improvement ordinance, and for which part or all of the principal or interest is paid by tax allocation revenues, shall be subject to the following requirements:

- (1) The intent to issue such bonds and the maximum amount which the sponsor contemplates issuing are specified in the public improvement ordinance; and
- (2) A statement of the intent of the sponsor to issue such bonds is included in all notices required by RCW 39.88.040 and 39.88.050.

In addition, the ordinance or resolution authorizing the issuance of such general obligation bonds shall be subject to potential referendum approval by the voters of the issuing entity when the bonds are part of the non-voter approved indebtedness limitation established pursuant to RCW 39.36.020. If the voters of the county or city issuing such bonds otherwise possess the general power of referendum on county or city matters, the ordinance or resolution shall be subject to that procedure. If the voters of the county or city issuing such bonds do not otherwise possess the general power of referendum on county or city matters, the referendum shall conform to the requirements and procedures for referendum petitions provided for code cities in RCW 35A.11.100. [1982 1st ex.s. c 42 § 10.]

39.88.100 Tax allocation bonds. (1) A sponsor may issue such tax allocation bonds as it may deem appropriate for the financing of public improvement costs and a reasonable bond reserve and for the refunding of any outstanding tax allocation bonds.

- (2) The principal and interest of tax allocation bonds may be made payable from:
 - (a) Tax allocation revenues;
 - (b) Project revenues which may include (i) nontax income, revenues, fees, and rents from the public improvement financed with the proceeds of the bonds, or

portions thereof, and (ii) contributions, grants, and non-tax money available to the sponsor for payment of costs of the public improvement or the debt service of the bonds issued therefor;

(c) Any combination of the foregoing.

(3) Tax allocation bonds shall not be the general obligation of or guaranteed by all or any part of the full faith and credit of the sponsor or any other state or local government, or any tax revenues other than tax allocation revenues, and shall not be considered a debt of the sponsor or other state or local government for general indebtedness limitation purposes.

(4) The terms and conditions of tax allocation bonds may include provisions for the following matters, among others:

(a) The date of issuance, maturity date or dates, denominations, form, series, negotiability, registration, rank or priority, place of payment, interest rate or rates which may be fixed or may vary over the life of the tax allocation bonds, bond reserve, coverage, and such other terms related to repayment of the tax allocation bonds;

(b) The application of tax allocation bond proceeds; the use, sale, or disposition of property acquired; consideration or rents and fees to be charged in the sale or lease of property acquired; consideration or rents and fees to be charged in the sale or lease of property within a public improvement; the application of rents, fees, and revenues within a public improvement; the maintenance, insurance, and replacement of property within a public improvement; other encumbrances, if any, upon all or part of property within a public improvement, then existing or thereafter acquired; and the type of debts that may be incurred;

(c) The creation of special funds; the money to be so applied; and the use and disposition of the money;

(d) The securing of the tax allocation bonds by a pledge of property and property rights, by assignment of income generated by the public improvement, or by pledging such additional specifically described resources other than tax revenues as are available to the sponsor;

(e) The terms and conditions for redemption;

(f) The replacement of lost and destroyed bond instruments;

(g) Procedures for amendment of the terms and conditions of the tax allocation bonds;

(h) The powers of a trustee to enforce covenants and take other actions in event of default; the rights, liabilities, powers, and duties arising upon the breach of any covenant, condition, or obligation; and

(i) When consistent with the terms of this chapter, such other terms, conditions, and provisions which may make the tax allocation bonds more marketable and further the purposes of this chapter.

(5) Tax allocation bonds may be issued and sold in such manner as the legislative authority of the sponsor shall determine.

(6) The sponsor may also issue or incur obligations in anticipation of the receipt of tax allocation bond proceeds or other money available to pay public improvement costs. [1982 1st ex.s. c 42 § 11.]

39.88.110 Legal investments. Tax allocation bonds authorized in this chapter shall be legal investments for any of the funds of the state and of municipal corporations, for trustees, and for other fiduciaries. [1982 1st ex.s. c 42 § 13.]

39.88.120 Notice to state. Whenever notice is required to be given to the state, notice shall be given to the director of revenue. [1982 1st ex.s. c 42 § 14.]

39.88.130 Conclusive presumption of validity. No direct or collateral attack on any public improvement, public improvement ordinance, or apportionment district purported to be authorized or created in conformance with applicable legal requirements, including the requirements of this chapter, may be commenced more than thirty days after publication of notice as required by RCW 39.88.050. [1982 1st ex.s. c 42 § 15.]

39.88.900 Supplemental nature of chapter. This chapter supplements and neither restricts nor limits any powers which the state or any municipal corporation might otherwise have under any laws of this state. [1982 1st ex.s. c 42 § 16.]

39.88.905 Short title. This chapter may be known and cited as the Community Redevelopment Financing Act of 1982. [1982 1st ex.s. c 42 § 1.]

39.88.910 Captions not part of law—1982 1st ex.s. c 42. As used in this act, captions constitute no part of the law. [1982 1st ex.s. c 42 § 17.]

39.88.915 Severability—1982 1st ex.s. c 42. 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. [1982 1st ex.s. c 42 § 18.]

Title 40

PUBLIC DOCUMENTS, RECORDS AND PUBLICATIONS

Chapters

- 40.04 Public documents.**
- 40.10 Microfilming of records to provide continuity of civil government.**
- 40.14 Preservation and destruction of public records.**

Chapter 40.04

PUBLIC DOCUMENTS

Sections

- 40.04.035** Temporary edition of session laws—Distribution and sale.
- 40.04.040** Permanent edition of session laws—Distribution, sale, exchange—Surplus copies, sale, price.
- 40.04.090** Legislative journals—Distribution, sale, exchange—Duties of law librarian.

40.04.035 Temporary edition of session laws—Distribution and sale. The statute law committee, after each legislative session, shall furnish one temporary bound copy of each act as published under chapter 44.20 RCW to each member of the legislature at which such law was enacted, and to each state department or division thereof, commission, committee, board, and council, and to community colleges. Thirty-five copies shall be furnished to the senate and fifty copies to the house of representatives or such other number as may be requested. Two copies shall be furnished the administrator for the courts. One copy shall be furnished for each assistant attorney general; and one copy each to the Olympia representatives of the Associated Press and the United Press.

Each county auditor shall submit each year to the statute law committee a list of county officials requiring temporary session laws for official use only, and the auditor shall receive and distribute such copies to the county officials.

There shall be a charge of five dollars for each of the complete sets of such temporary publications when delivered to any person, firm, corporation, or institution excepting the persons and institutions named in this section. All moneys received from the sale of such temporary sets shall be transmitted to the state treasurer who shall deposit the same in the state treasury to the credit of the general fund. [1982 1st ex.s. c 32 § 5.]

Publication of temporary edition of session laws: RCW 44.20.030.

40.04.040 Permanent edition of session laws—Distribution, sale, exchange—Surplus copies, sale, price. Permanent session laws shall be distributed, sold, and/or exchanged by the state law librarian as follows:

(1) Copies shall be given as follows: One to each United States senator and representative in congress from this state; two to the Library of Congress; one to the United States supreme court library; three to the library of the circuit court of appeals of the ninth circuit; two to each United States district court room within this state; two to each office and branch office of the United States district attorneys in this state; one to each state official whose office is created by the Constitution; two each to the president of the senate, secretary of the senate, speaker of the house of representatives, and chief clerk of the house of representatives and such additional copies as they may request; fourteen copies to the code reviser; two copies to the state library; two copies to the law library of the University of Puget Sound law school; two copies to the law library of Gonzaga University law school; two copies to the law libraries of any accredited law schools as are hereafter established in this state; one copy to each state adult correctional institution; and one copy to each state mental institution.

(2) Copies, for official use only, shall be distributed as follows: Two copies to the governor; one each to the state historical society and the state bar association; and one copy to each prosecuting attorney.

Sufficient copies shall be furnished for the use of the supreme court, the court of appeals, the superior courts, and the state law library as from time to time are

needed. Eight copies shall be distributed to the University of Washington law library; one copy each to the offices of the president and the board of regents of the University of Washington, the dean of the University of Washington school of law, and to the University of Washington library; one copy to the library of each of the regional universities and to The Evergreen State College; one copy to the president of the Washington State University and four copies to the Washington State University library. Six copies shall be sent to the King county law library, and one copy to each of the county law libraries organized pursuant to law; one copy to each public library in cities of the first class, and one copy to the municipal reference branch of the Seattle public library.

(3) Surplus copies of the session laws shall be sold and delivered by the state law librarian, in which case the price of the bound volumes shall be twenty dollars each. All moneys received from the sale of such bound volumes of session laws shall be paid into the state treasury for the general fund.

(4) The state law librarian is authorized to exchange bound copies of the session laws for similar laws or legal materials of other states, territories, and governments, and to make such other and further distribution of the bound volumes as in his judgment seems proper. [1982 1st ex.s. c 32 § 1; 1981 c 162 § 1; 1977 ex.s. c 169 § 94; 1973 c 33 § 1; 1969 c 6 § 8; 1941 c 150 § 4; Rem. Supp. 1941 § 8217-4. Formerly RCW 40.04.040 through 40.04.080.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Publication of permanent edition of session laws: RCW 44.20.050.

40.04.090 Legislative journals—Distribution, sale, exchange—Duties of law librarian. The house and senate journals shall be distributed and/or sold by the state law librarian as follows:

(1) Sets shall be distributed as follows: One set to each secretary and assistant secretary of the senate, chief clerk and assistant to the chief clerk of the house of representatives, and to each minute clerk and sergeant-at-arms of the two branches of the legislature of which they occupy the offices and positions mentioned. One to each official whose office is created by the Constitution, and one to each state department director; three copies to the University of Washington law library; two copies to the University of Washington library; one to the King county law library; one to the Washington State University library; one to the library of each of the regional universities and to The Evergreen State College; one to the law library of Gonzaga University law school; one to the law library of the University of Puget Sound law school; one to the law libraries of any accredited law school as hereafter established in this state; and one to each free public library in the state which requests it.

(2) House and senate journals of the preceding regular session during an odd- or even-numbered year, and of any intervening special session, shall be provided for use of legislators in such numbers as directed by the chief clerk of the house of representatives and secretary

of the senate; and sufficient sets shall be retained for the use of the state law library.

(3) Surplus sets of the house and senate journals shall be sold and delivered by the state law librarian, in which case the price shall be thirty-five dollars plus postage for those of the regular sessions during an odd- or even-numbered year, and at a price determined by the state printer to cover the costs of paper, printing, binding and postage for those of the special sessions, when separately bound, and the proceeds therefrom shall be paid to the state treasurer for the general fund.

(4) The state law librarian is authorized to exchange copies of the house and senate journals for similar journals of other states, territories, and/or governments, or for other legal materials, and to make such other and further distribution of them as in his judgment seems proper. [1982 1st ex.s. c 32 § 2; 1980 c 87 § 13; 1977 ex.s. c 169 § 95; 1973 c 33 § 2; 1941 c 150 § 5; Rem. Supp. 1941 § 8217-5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 40.10

MICROFILMING OF RECORDS TO PROVIDE CONTINUITY OF CIVIL GOVERNMENT

Sections

40.10.010	Essential records—Designation—List—Security and protection—Reproduction.
40.10.020	Essential records—Reproduction and storage—Coordination of protection program—Fees.

40.10.010 Essential records—Designation—List—Security and protection—Reproduction. In order to provide for the continuity and preservation of civil government, each elected and appointed officer of the state shall designate those public documents which are essential records of his office and needed in an emergency and for the reestablishment of normal operations after any such emergency. A list of such records shall be forwarded to the state archivist on forms prescribed by the state archivist. This list shall be reviewed at least annually by the elected or appointed officer to insure its completeness. Any changes or revisions following this review shall be forwarded to the state archivist. Each such elected and appointed officer of state government shall insure that the security of essential records of his office is by the most economical means commensurate with adequate protection. Protection of essential records may be by vaulting, planned or natural dispersal of copies, or any other method approved by the state archivist. Reproductions of essential records may be by photo copy, magnetic tape, microfilm or other method approved by the state archivist. Local government offices may coordinate the protection of their essential records with the state archivist as necessary to provide continuity of local government under emergency conditions. [1982 c 36 § 1; 1973 c 54 § 1; 1963 c 241 § 1.]

Severability—1973 c 54: "If any provision of this 1973 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." [1973 c 54 § 6.] This applies to the 1973 amendments to RCW 40.10.010, 40.10.020, 40.14.040, 40.14.060 and 40.14.070.

40.10.020 Essential records—Reproduction and storage—Coordination of protection program—Fees. The state archivist is authorized to reproduce those documents designated as essential records by the several elected and appointed officials of the state and local government by microfilm or other miniature photographic process and to assist and cooperate in the storage and safeguarding of such reproductions in such place as is recommended by the state archivist with the advice of the director of the department of emergency services. The state archivist shall coordinate the essential records protection program and shall carry out the provisions of the state emergency plan as they relate to the preservation of essential records. The state archivist is authorized to charge the several departments of the state and local government the actual cost incurred in reproducing, storing and safeguarding such documents: *Provided*, That nothing herein shall authorize the destruction of the originals of such documents after reproduction thereof. [1982 c 36 § 2; 1973 c 54 § 2; 1963 c 241 § 2.]

Chapter 40.14

PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS

Sections

- 40.14.010 Definition and classification of public records.
- 40.14.040 Records officers—Designation—Powers and duties.
- 40.14.060 Destruction, disposition of official public records or office files and memoranda—Record retention schedules.
- 40.14.070 Destruction, disposition of local government records—Preservation for historical interest—Local records committee, duties—Record retention schedules.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

40.14.010 Definition and classification of public records. As used in this chapter, the term "public records" shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100.

For the purposes of this chapter, public records shall be classified as follows:

(1) Official public records shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all

fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or documents required by law to be filed with or kept by any agency of the state of Washington; all legislative records as defined in RCW 40.14.100; and all other documents or records determined by the records committee, created in RCW 40.14.050, to be official public records.

(2) Office files and memoranda include such records as correspondence, exhibits, drawings, maps, completed forms, or documents not above defined and classified as official public records; duplicate copies of official public records filed with any agency of the state of Washington; documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and other documents or records as determined by the records committee to be office files and memoranda. [1982 c 36 § 3; 1981 c 32 § 4; 1971 ex.s. c 102 § 1; 1957 c 246 § 1.]

40.14.040 Records officers—Designation—Powers and duties. Each department or other agency of the state government shall designate a records officer to supervise its records program and to represent the office in all contacts with the records committee, hereinafter created, and the division of archives and records management. The records officer shall:

- (1) Coordinate all aspects of the records management program.
- (2) Inventory, or manage the inventory, of all public records at least once during a biennium for disposition scheduling and transfer action, in accordance with procedures prescribed by the state archivist and state records committee: *Provided*, That essential records shall be inventoried and processed in accordance with chapter 40.10 RCW at least annually.
- (3) Consult with any other personnel responsible for maintenance of specific records within his state organization regarding records retention and transfer recommendations.
- (4) Analyze records inventory data, examine and compare divisional or unit inventories for duplication of records, and recommend to the state archivist and state records committee minimal retentions for all copies commensurate with legal, financial and administrative needs.
- (5) Approve all records inventory and destruction requests which are submitted to the state records committee.
- (6) Review established records retention schedules at least annually to insure that they are complete and current.
- (7) Exercise internal control over the acquisition of filming and file equipment.

If a particular agency or department does not wish to transfer records at a time previously scheduled therefor, the records officer shall, within thirty days, notify the archivist and request a change in such previously set schedule, including his reasons therefor. [1982 c 36 § 4; 1979 c 151 § 51; 1973 c 54 § 3; 1957 c 246 § 4.]

40.14.060 Destruction, disposition of official public records or office files and memoranda—Record retention schedules. (1) Any destruction of official public records shall be pursuant to a schedule approved under RCW 40.14.050. Official public records shall not be destroyed unless:

(a) The records are six or more years old;

(b) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly if lesser federal retention periods for records generated by the state under federal programs have been established; or

(c) The originals of official public records less than six years old have been copied or reproduced by any photographic or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

(2) Any lesser term of retention than six years must have the additional approval of the director of financial management, the state auditor and the attorney general, except when records have federal retention guidelines the state records committee may adjust the retention period accordingly. An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the state records committee for approval or disapproval of the change to a retention period of six years.

Recommendations for the destruction or disposition of office files and memoranda shall be submitted to the records committee upon approved forms prepared by the records officer of the agency concerned and the archivist. The committee shall determine the period of time that any office file or memorandum shall be preserved and may authorize the division of archives and records management to arrange for its destruction or disposition. [1982 c 36 § 5; 1979 c 151 § 52; 1973 c 54 § 4; 1957 c 246 § 6.]

40.14.070 Destruction, disposition of local government records—Preservation for historical interest—Local records committee, duties—Record retention schedules. County, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management lists of such records on forms prepared by the division. The archivist and the chief examiner of the division of municipal corporations of the office of the state auditor and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which may veto the destruction of any or all items contained therein.

A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by the agency to the local records committee.

The schedules are to be submitted on forms provided by the division of archives and records management to the local records committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the local records committee. Upon such approval, the schedule shall constitute authority for the local government agency to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the committee.

Except as otherwise provided by law, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

(1) The records are six or more years old;

(2) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or

(3) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of six years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency. [1982 c 36 § 6; 1973 c 54 § 5; 1971 ex.s. c 10 § 1; 1957 c 246 § 7.]

Destruction and reproduction of court records: RCW 36.23.065 through 36.23.070.

Title 41

PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

Chapters

- 41.04** General provisions.
- 41.05** State employees' insurance and health care.
- 41.06** State civil service law.
- 41.14** Civil service for sheriff's office.

- 41.16 Firemen's relief and pensions—1947 act.
- 41.24 Volunteer firemen's relief and pensions.
- 41.26 Law enforcement officers' and fire fighters' retirement system.
- 41.32 Teachers' retirement.
- 41.40 Washington public employees' retirement system.
- 41.50 Department of retirement systems.
- 41.60 State employees' suggestion awards.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 41.04 GENERAL PROVISIONS

Sections

- 41.04.005 "Veteran" defined for certain purposes.
- 41.04.020 Public employees—Payroll deductions authorized.
- 41.04.255 Individual retirement account plans authorized.
- 41.04.345 Payment for accrued vacation leave prohibited—Exceptions.
- 41.04.360 State-employed chaplains—Housing allowance.

41.04.005 "Veteran" defined for certain purposes. As used in RCW 41.04.005, 41.04.010, 41.16.220, and 41.20.050 "veteran" includes every person, who at the time he seeks the benefits of RCW 28B.40.361, 41.04.005, 41.04.010, 41.16.220 and 41.20.050, has served in any branch of the armed forces of the United States during:

(1) Any period of war and such "period of war" shall include World War I, World War II, the Korean conflict, the Viet Nam era, and the period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress. The said "Viet Nam era" shall mean the period beginning August 5, 1964, and ending on such date as shall thereafter be determined by presidential proclamation or concurrent resolution of the congress; and in addition to this subsection, who, upon termination of said service has

(2) Received an honorable discharge; or

(3) Received a discharge for physical reasons with an honorable record; or

(4) Been released from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. [1982 1st ex.s. c 37 § 20; 1969 ex.s. c 269 § 1.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

41.04.020 Public employees—Payroll deductions authorized. Any employee or group of employees of the state of Washington or any of its political subdivisions, or of any institution supported, in whole or in part, by the state or any of its political subdivisions, may authorize the deduction from his or their salaries or wages and payment to another, the amount or amounts of his or their subscription payments or contributions to any person, firm, or corporation administering, furnishing, or providing (1) medical, surgical, and hospital care or either of them, or (2) life insurance or accident and health

disability insurance, or (3) any individual retirement account selected by the employee or the employee's spouse established under applicable state or federal law, or (4) any individual retirement account which is (a) offered through the committee for deferred compensation, (b) selected by the employee, and (c) established under applicable state or federal law: *Provided*, That such authorization by said employee or group of employees, shall be first approved by the head of the department, division office or institution of the state or any political subdivision thereof, employing such person or group of persons, and filed with the department of personnel; or in the case of political subdivisions of the state of Washington, with the auditor of such political subdivision or the person authorized by law to draw warrants against the funds of said political subdivision. [1982 c 107 § 1; 1973 c 106 § 15; 1947 c 70 § 1; Rem. Supp. 1947 § 9963-10.]

Committee for deferred compensation—Individual retirement accounts: RCW 41.04.250, 41.04.255.

Group insurance disability: Chapter 48.21 RCW. for employees of cities and towns: RCW 35.23.460. counties: RCW 36.32.400. life: Chapter 48.24 RCW.

41.04.255 Individual retirement account plans authorized. In addition to its other powers prescribed under this chapter, the committee for deferred compensation is authorized to offer to state employees one or more individual retirement account plans established under applicable state or federal law. [1982 c 107 § 2.]

41.04.345 Payment for accrued vacation leave prohibited—Exceptions. No agency or department of the state or political subdivision of the state except those subdivisions not participating in the public employment retirement systems may make any payment to an employee for unused or accrued vacation leave upon termination of employment except in the case of death: *Provided*, That contracts may provide a method whereby all accumulated vacation leave may be taken as vacation leave: *Provided further*, That this section shall not apply to any employee covered by chapter 41.26 RCW. [1982 1st ex.s. c 51 § 1.]

Savings—1982 1st ex.s. c 51: "This act shall not have the effect of terminating or modifying any rights acquired under a contract in existence prior to the effective date of this act." [1982 1st ex.s. c 51 § 4.]

Effective date—1982 1st ex.s. c 51: "This act shall take effect July 1, 1982." [1982 1st ex.s. c 51 § 5.]

Severability—1982 1st ex.s. c 51: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 51 § 6.]

The above three annotations apply to the enactment of RCW 41.04.345 and the 1982 1st ex.s. c 51 amendments of RCW 43.01.040 and 43.01.041.

Payment for accrued vacation leave of state officers and employees: RCW 43.01.040, 43.01.041.

41.04.360 State-employed chaplains—Housing allowance. In the case of a minister or other clergyperson employed as a chaplain in a state institution or agency,

there is designated in the salary or wage paid to the person an amount up to forty percent of the gross salary as either of the following:

- (1) The rental value of a home furnished to the person as part of the person's compensation; or
- (2) The housing/rental allowance paid to the person as part of the person's compensation, to the extent used by the person to rent or provide a home. [1982 c 190 § 1.]

Appointment and duties of institutional chaplains: RCW 72.01.210 through 72.01.260.

Chapter 41.05

STATE EMPLOYEES' INSURANCE AND HEALTH CARE

Sections

- 41.05.025 State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties.
- 41.05.050 Contributions for employees and dependents (as amended by 1981 c 344).
- 41.05.050 Contributions for employees and dependents—Survey of group insurance programs (as amended by 1982 1st ex.s. c 34).

41.05.025 State employees' insurance board—Created—Membership—Meetings—Travel expenses—Powers and duties. (1) There is hereby created a state employees' insurance board to be composed of the members of the present board holding office on the day prior to July 1, 1977, which such members shall serve until the expiration of the period of time of the term for which they were appointed and until their successors are appointed and qualified. Thereafter the board shall be composed as follows: The governor or the governor's designee; one administrative officer representing all of higher education to be appointed by the governor; two higher education faculty members to be appointed by the governor; the director of the department of personnel who shall act as trustee; one representative of an employee association certified as an exclusive representative of at least one bargaining unit of classified employees and one representative of an employee union certified as exclusive representative of at least one bargaining unit of classified employees, both to be appointed by the governor; one person who is retired and is covered by a program under the jurisdiction of the board, to be appointed by the governor; one member of the senate who shall be appointed by the president of the senate; and one member of the house of representatives who shall be appointed by the speaker of the house. The terms of office of the administrative officer representing higher education, the two higher education faculty members, the representative of an employee association, the retired person, and the representative of an employee union shall be for four years: *Provided*, That the first term of one faculty member and one employee association or union representative member shall be for three years. Meetings of the board shall be at the call of the director of personnel. The board shall prescribe rules for the conduct of its business and shall elect a chairman

and vice chairman annually. Members of the board shall receive no compensation for their services, but shall be paid for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and legislative members shall receive allowances provided for in RCW 44.04.120.

(2) The board shall study all matters connected with the providing of adequate health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any one of, or a combination of, the enumerated types of insurance and health care plans for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state: *Provided*, That liability insurance shall not be made available to dependents. The board shall design benefits, devise specifications, analyze carrier responses to advertisements for bids, determine the terms and conditions of employee participation and coverage, and decide on the award of contracts which shall be signed by the trustee on behalf of the board: *Provided*, That all contracts for insurance, health care plans, including panel medicine plans, or protection applying to employees covered by RCW 28B.10.660 and chapters 41.04 and 41.05 RCW shall provide that the beneficiaries of such insurance, health care plans, or protection may utilize on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.88 RCW: *Provided further*, That the boards of trustees and boards of regents of the several institutions of higher education shall retain sole authority to provide liability insurance as provided in RCW 28B.10.660. The board shall from time to time review and amend such plans. Contracts for all plans shall be rebid and awarded at least every five years.

(3) The board shall develop and provide as a part of the employee insurance benefit program an employee health care benefit plan which may be provided through a contract or contracts with regularly constituted insurance carriers or health care service contractors as defined in chapter 48.44 RCW, and a plan to be provided by a panel medicine plan in its service area only when approved by the board. The board may but shall not be required to pay more for health benefits under a panel medicine plan than it would otherwise be required to pay for health benefits by a contract with a regularly constituted insurance carrier or health care service contractor in effect at the time the panel medicine plan is included in the employee health care benefit plan. Except for panel medicine plans, the board may but is not required to contract with more than one insurance carrier or health care service contractor to provide similar benefits: *Provided*, That employees may choose participation in only one of the health care benefit plans sponsored by the board. Active employees, as defined in *RCW 41.05.020(2), eligible for medicare benefits shall have the option of continuing participation in health care programs on the same basis as all other employees or participation in medicare supplemental programs as may be developed by the board. These health care benefit

plans shall provide coverage for all officials and employees and their dependents without premium or subscription cost to the individual employees and officials, unless the board approves a panel medicine plan at a subscription rate in excess of the premium of the regularly constituted insurance carrier or health care service contractor, in which circumstances an employee contribution may be authorized at an amount equal to such excess. Rates for self pay segments of state employee groups will be developed from the experience of the entire group. Such self pay rates will be established based on a separate rate for the employee, the spouse, and children.

(4) The board shall review plans proposed by insurance carriers who desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by carriers holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans. [1982 1st ex.s. c 34 § 1; 1980 c 120 § 2; 1979 c 125 § 1; 1977 ex.s. c 136 § 2.]

***Reviser's note:** RCW 41.05.020 was repealed by 1977 ex.s. c 136 § 7 and by 1979 c 125 § 4.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: See note following RCW 41.05.005.

41.05.050 Contributions for employees and dependents (as amended by 1981 c 344). (1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the state employees insurance board. Such contributions, which shall be paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the state employee's insurance board to pay the administrative expenses of the board and the salaries and wages and expenses of the benefits supervisor and other necessary personnel: *Provided*, That this administrative service charge for state employees shall not result in an employer contribution in excess of the amount authorized by the governor and the legislature as prescribed in RCW 41.05.050(2), and that the sum of an employee's insurance premiums and administrative service charge in excess of such employer contribution shall be paid by the employee. All such contributions will be paid into the state employees insurance fund to be expended in accordance with RCW 41.05.030.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the state employees insurance board, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose: *Provided*, That provision for school district personnel shall not be made under this chapter.

(3) The trustee with the assistance of the department of personnel shall annually survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance programs under the jurisdiction of the state employees insurance board. Such survey shall be reported to the board for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The board shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature. [1981 c 344 § 6; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Severability—1981 c 344: See note following RCW 47.64.010.

41.05.050 Contributions for employees and dependents—Survey of group insurance programs (as amended by 1982 1st ex.s. c 34). (1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the state employees insurance board. Such contributions, which shall be paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the state employee's insurance board to pay the administrative expenses of the board and the salaries and wages and expenses of the benefits supervisor and other necessary personnel: *Provided*, That this administrative service charge for state employees shall not result in an employer contribution in excess of the amount authorized by the governor and the legislature as prescribed in RCW 41.05.050(2), and that the sum of an employee's insurance premiums and administrative service charge in excess of such employer contribution shall be paid by the employee. All such contributions will be paid into the state employees insurance fund to be expended in accordance with RCW 41.05.030.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the state employees insurance board, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose: *Provided*, That 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 survey private industry and public employers in the state of Washington to determine the average employer contribution and the average level of benefits for group insurance programs under the jurisdiction of the state employees insurance board. Such survey shall be conducted during each even-numbered year but may be conducted more frequently. The survey shall be reported to the board for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The board shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature. [1982 1st ex.s. c 34 § 2; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Reviser's note: RCW 41.05.050 was amended during the 1981 regular session of the legislature by 1981 c 344 § 6 and subsequently was amended during the 1982 first extraordinary session by 1982 1st ex.s. c 34 § 2, without cognizance of the 1981 amendment.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: See note following RCW 41.05.005.

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

Chapter 41.06

STATE CIVIL SERVICE LAW

Sections	
41.06.020	Definitions.
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41.06.083	Law revision commission—Personnel exempted from chapter.
41.06.100	Repealed.
41.06.110	Personnel board—Created—Term—Qualifications, conditions—Compensation, travel expenses—Officers, quorum, records.
41.06.130	Director of personnel—Appointment—Removal—Rules—General powers and duties—Delegation of authority.
41.06.150	Rules of board—Mandatory subjects—Veterans' preference.

41.06.169	Standardized employee performance evaluation procedures and forms required to be developed—Expiration of section.
41.06.175	Employee performance evaluations—Procedures—Appeal.
41.06.185	Employee performance evaluations—Nonmanagement employees—Increment and merit increases in salary.
41.06.195	Employee performance evaluations—Management employees—Increment and merit increases in salary.
41.06.205	Layoff of classified employees—Criteria.
41.06.215	Reemployment from layoff.
41.06.280	Department of personnel service fund—Created—Charges to agencies, payment—Use, disbursement.
41.06.450	Destruction or retention of information relating to employee misconduct.
41.06.455	Destruction of employee records authorized if consistent with other laws.
41.06.460	Application of RCW 41.06.450 and 41.06.455 to classified and exempt employees.

41.06.020 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Board" means the state personnel board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(3) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(4) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(5) "Management employees" means those employees:

(a) Who are classified under this chapter and who are exempt employees under this chapter and have their salary and fringe benefits determined under RCW 41.06-.070; and

(b) Who are specified as management by the state personnel board; but the board shall not go below range 49, as established in the October 1981 state personnel board compensation plan, or its equivalent range in a subsequent compensation plan publication.

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(7) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(8) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual

employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(9) "Training" means activities designed to develop job-related knowledge and skills of employees.

(10) "Director" means the director of personnel appointed under the provisions of RCW 41.06.130. [1982 1st ex.s. c 53 § 1; 1980 c 118 § 2; 1970 ex.s. c 12 § 1. Prior: 1969 ex.s. c 36 § 21; 1969 c 45 § 6; 1967 ex.s. c 8 § 48; 1961 c 1 § 2.]

Severability—1982 1st ex.s. c 53: "If any provision of this 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." [1982 1st ex.s. c 53 § 32.]

Severability—1980 c 118: See note following RCW 41.06.010.

41.06.070 Exemptions—Right of reversion to civil service status. The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

(5) Elective officers of the state;

(6) The chief executive officer of each agency;

(7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;

(8) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(a) All members of such boards, commissions, or committees;

(b) If the members of the board, commission, or committee serve on a part time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;

(c) If the members of the board, commission, or committee serve on a full time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;

(d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;

(9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(10) Assistant attorneys general;

(11) Commissioned and enlisted personnel in the military service of the state;

(12) Inmate, student, part time, or temporary employees, and part time professional consultants, as defined by the state personnel board or the board having jurisdiction;

(13) The public printer or to any employees of or positions in the state printing plant;

(14) Officers and employees of the Washington state fruit commission;

(15) Officers and employees of the Washington state apple advertising commission;

(16) Officers and employees of the Washington state dairy products commission;

(17) Officers and employees of the Washington tree fruit research commission;

(18) Officers and employees of the Washington state beef commission;

(19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

(20) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

(21) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

(22) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: *Provided, however,* That rules and regulations adopted by the state personnel board pursuant to RCW 41.06-.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(23) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(24) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected

official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred seventy-five for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted pursuant to the provisions of this subsection, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (10) through (21) of this section, shall be determined by the state personnel board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the personnel board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982. [1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1. Prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Effective date—Severability—1969 ex.s. c 36: See RCW 28B-.16.920 and 28B.16.930.

Severability—1967 ex.s. c 8: See RCW 28B.50.910.

41.06.083 Law revision commission—Personnel exempted from chapter. The provisions of this chapter do not apply to any position in or employee of the Washington law revision commission. [1982 c 183 § 10.]

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

41.06.110 Personnel board—Created—Term—Qualifications, conditions—Compensation, travel expenses—Officers, quorum, records. (1) There is hereby created a state personnel board composed of three members appointed by the governor, subject to confirmation by the senate. The first such board shall be appointed within thirty days after December 8, 1960, for terms of two, four, and six years. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be paid fifty dollars for each day in which he has actually attended a meeting of the board officially held. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director of personnel shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals until December 31, 1982. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts. [1982 c 10 § 8. Prior: 1981 c 338 § 20; 1981 c 311 § 16; 1977 c 6 § 2; prior: 1975-'76 2nd ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 34 § 86; 1961 c 1 § 11.]

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 311: See RCW 41.64.910.

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

Appointment and compensation of institutional chaplains: RCW 72.01.210.

Personnel appeals board: Chapter 41.64 RCW.

41.06.130 Director of personnel—Appointment—Removal—Rules—General powers and duties—Delegation of authority. The office of director of personnel is hereby established.

(1) Within ninety days after December 8, 1960, a director of personnel shall be appointed. The merit system director then serving under *RCW 50.12.030, whose position is terminated by this chapter, may serve as director of personnel hereunder until a permanent director of personnel is appointed as herein provided, and may be appointed as director of personnel by the governor alone; or the governor may fill the position in the manner hereinafter provided for subsequent vacancies therein on the basis of competitive examination, in conformance with board rules for competitive examinations, for which examinations the merit system director is eligible.

(2) The director of personnel shall be appointed by the governor from a list of three names submitted to him by the board with its recommendations. The names on such list shall be those of the three standing highest upon competitive examination conducted by a committee of three persons appointed by the board solely for that purpose whenever the position is vacant. Only persons with substantial experience in the field of personnel management are eligible to take such examination.

(3) The director of personnel is removable for cause by the governor with the approval of a majority of the board or by a majority of the board.

(4) The director of personnel shall direct and supervise all the department of personnel's administrative and technical activities in accordance with the provisions of this chapter and the rules and regulations approved and promulgated thereunder. He shall prepare for consideration by the board proposed rules and regulations required by this chapter. His salary shall be fixed by the board.

(5) The director of personnel may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the director of personnel is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The director of personnel shall prescribe standards and guidelines for the performance of delegated activities. If the director of personnel determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities. [1982 1st ex.s. c 53 § 3; 1961 c 1 § 13.]

***Reviser's note:** RCW 50.12.030 was repealed by 1961 c 1 § 33.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.150 Rules of board—Mandatory subjects—Veterans' preference. The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The reduction, dismissal, suspension, or demotion of an employee;

(2) Certification of names for vacancies, including departmental promotions and reemployment from layoff, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Training and career development;

(6) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

(10) Layoffs when necessary and subsequent reemployment;

(11) Determination of appropriate bargaining units within any agency: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: *Provided*, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: *Provided further*, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: *Provided further*, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: *And provided further*, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: *Provided*, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment or merit increases within the series of steps for each pay grade;

(19) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: *Provided, however*, That the widow of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: *Provided further*, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: *Provided*, That the board may not authorize such delegation

to any position lower than the head of a major subdivision of the agency. [1982 1st ex.s. c 53 § 4. Prior: 1982 c 79 § 1; 1981 c 311 § 18; 1980 c 118 § 3; 1979 c 151 § 57; 1977 ex.s. c 152 § 1; 1973 1st ex.s. c 75 § 1; 1973 c 154 § 1; 1971 ex.s. c 19 § 2; 1967 ex.s. c 108 § 13; 1961 c 1 § 15.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1981 c 311: See RCW 41.64.910.

Severability—1980 c 118: See note following RCW 41.06.010.

Severability—1977 ex.s. c 152: "If any provision of this 1977 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." [1977 ex.s. c 152 § 14.] This applies to RCW 28B.16.101, 28B.16.105, 28B.16.112, 28B.16.113, 41.06.163, 41.06.165, 41.06.167, and 41.06.169, the 1977 amendments to RCW 28B.16.100, 28B.16.110, 41.06.150, and 41.06.160, and the repeal of RCW 41.06.090.

Effective date—1973 1st ex.s. c 75: "This 1973 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 midnight June 6, 1973." [1973 1st ex.s. c 75 § 3.]

Public employees' collective bargaining: Chapter 41.56 RCW.

41.06.169 Standardized employee performance evaluation procedures and forms required to be developed—

Expiration of section. After consultation with state agency heads, employee organizations, and other interested parties, the state personnel director shall develop standardized employee performance evaluation procedures and forms which shall be used by state agencies for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual agencies may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. Performance evaluation procedures shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling state agency and job objectives. This section shall expire June 30, 1985. This section shall not apply to management employees after June 30, 1984. [1982 1st ex.s. c 53 § 5; 1977 ex.s. c 152 § 6.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Severability—1977 ex.s. c 152: See note following RCW 41.06.150.

41.06.175 Employee performance evaluations—

Procedures—Appeal. (1) After consultation with state agency heads, employee organizations, and other interested parties, the state personnel director shall develop employee performance evaluation standards, procedures, and forms which shall be used by state agencies for the appraisal of employee job performance at least annually. The performance evaluation procedures shall include means whereby individual agencies may develop special performance factors peculiar to the organizational needs of particular employing agencies. Performance evaluation standards shall not include detailed work expectations, which shall be developed by the employing agency.

(2) The standardized performance evaluation shall measure employee performance within at least five performance rating categories as established by the board. Such evaluation shall be given to classified employees and those exempt employees whose salary and fringe benefits are determined by the board pursuant to RCW 41.06.070.

(3) The board shall adopt rules designed to insure that performance evaluations of employees do not result in unrealistic concentration in any performance rating category.

(4) This section shall apply to:

(a) Management employees beginning July 1, 1984; and

(b) All other employees beginning July 1, 1985.

(5) A classified employee may appeal his or her performance evaluation under RCW 41.06.170(2) only to the extent the evaluation violates this chapter or rules promulgated under this chapter, or if the performance rating category received in the performance evaluation would result in a withdrawal of the increment increase previously received other than the increment increase received under RCW 41.06.185(3). [1982 1st ex.s. c 53 § 6.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.185 Employee performance evaluations—

Nonmanagement employees—Increment and merit increases in salary. (1) Beginning July 1, 1985, the performance of each nonmanagement employee shall be evaluated prior to the date on which the nonmanagement employee would be eligible to receive an increment or merit increase in salary. In the conduct of the evaluation, the agency shall use the evaluation procedure and forms adopted under RCW 41.06.175.

(2) After June 30, 1985, increment or merit increases for these employees may be awarded only as follows:

(a) To the midstep of the salary range based on seniority if the employee receives other than the lowest performance rating category; and

(b) From the midstep of the salary range based on satisfactory performance, but if the employee in the performance evaluation receives a performance rating category of less than satisfactory, the increase granted as a result of the prior performance evaluation shall be withdrawn.

(3) A nonmanagement employee at the top of the salary range may only be granted an additional increase if the performance of the nonmanagement employee is rated in the highest performance rating category. Such increase shall be withdrawn if any subsequent performance evaluation is less than the highest performance rating category. [1982 1st ex.s. c 53 § 8.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.195 Employee performance evaluations—

Management employees—Increment and merit increases in salary. Beginning on July 1, 1984, management employees of an agency shall be subject to

performance evaluation using the procedures developed under RCW 41.06.175. Such management employees may only be granted increment and merit increases in salary, based on performance, under the rules promulgated by the board. [1982 1st ex.s. c 53 § 9.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.205 Layoff of classified employees—Criteria. (1) The board shall develop rules by January 1, 1984, which will assure that whenever an agency makes a layoff of classified management employees after June 30, 1985, or other classified employees after June 30, 1986, the decision on which employees to lay off shall be based on performance and seniority.

(2) From July 10, 1982, until the provisions of subsection (1) of this section are implemented, the decision on which employees to lay off shall be based on seniority. However, where seniority is equal, performance shall be used as the determining factor. [1982 1st ex.s. c 53 § 7.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.215 Reemployment from layoff. Whenever an employee has been laid off, the employee's rights in respect to reemployment from layoff shall be based on seniority and subject to RCW 41.06.150(2). Certification from the layoff lists may be augmented by names from other lists if necessary to complete the certification. [1982 1st ex.s. c 53 § 10.]

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

41.06.280 Department of personnel service fund—Created—Charges to agencies, payment—Use, disbursement. There is hereby created a fund within the state treasury, designated as the "Department of Personnel Service Fund", to be used by the board as a revolving fund for the payment of salaries, wages and operations required for the administration of the provisions of this chapter and chapter 41.60 RCW. An amount not to exceed one percent of the approved allotments of salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher learning and the department of highways, shall be charged to the operations appropriations of each agency and credited to the department of personnel service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the department with funds to meet its anticipated expenditures during the allotment period.

The director of personnel shall fix the terms and charges for services rendered by the department of personnel pursuant to RCW 41.06.080, which amounts shall be credited to the department of personnel service

fund and charged against the proper fund or appropriation of the recipient of such services on a quarterly basis; payment for services so rendered under RCW 41.06.080 shall be made on a quarterly basis to the state treasurer and by him deposited in the department of personnel service fund.

Moneys from the department of personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1982 c 167 § 13; 1963 c 215 § 1; 1961 c 1 § 28.]

Reviser's note: Powers, duties, and functions of department of highways transferred to department of transportation; see RCW 47.01.031. Term "department of highways" means department of transportation; see RCW 47.04.015.

Severability—1982 c 167: See note following RCW 41.60.015.

41.06.450 Destruction or retention of information relating to employee misconduct. (1) By January 1, 1983, the personnel board shall adopt rules applicable to each agency to ensure that information relating to employee misconduct or alleged misconduct is destroyed or maintained as follows:

(a) All such information determined to be false and all such information in situations where the employee has been fully exonerated of wrongdoing, shall be promptly destroyed;

(b) All such information having no reasonable bearing on the employee's job performance or on the efficient and effective management of the agency, shall be promptly destroyed;

(c) All other information shall be retained only so long as it has a reasonable bearing on the employee's job performance or on the efficient and effective management of the agency.

(2) Notwithstanding subsection (1) of this section, an agency may retain information relating to employee misconduct or alleged misconduct if:

(a) The employee requests that the information be retained; or

(b) The information is related to pending legal action or legal action may be reasonably expected to result.

(3) In adopting rules under this section, the personnel board shall consult with the public disclosure commission to ensure that the public policy of the state, as expressed in chapter 42.17 RCW, is adequately protected. [1982 c 208 § 10.]

Legislative finding—Purpose—RCW 41.06.450: "The legislature finds that, under some circumstances, maintaining information relating to state employee misconduct or alleged misconduct is unfair to employees and serves no useful function to the state. The purpose of RCW 41.06.450 is to direct the personnel board to adopt rules governing maintenance of employee records so that the records are maintained in a manner which is fair to employees, which ensures proper management of state governmental affairs, and which adequately protects the public interest." [1982 c 208 § 9.]

Severability—1982 c 208: See RCW 42.40.900.

Application of public disclosure law to information relating to employee misconduct: RCW 42.17.295.

41.06.455 Destruction of employee records authorized if consistent with other laws. RCW 41.06.450 does not prohibit an agency from destroying identifying information in records relating to employee misconduct or

alleged misconduct if the agency deems the action is consistent with the policy expressed in RCW 41.06.450 and in chapter 42.17 RCW. [1982 c 208 § 11.]

Severability—1982 c 208: See RCW 42.40.900.

41.06.460 Application of RCW 41.06.450 and 41.06.455 to classified and exempt employees. Notwithstanding RCW 41.06.040, 41.06.450 and 41.06.455 apply to all classified and exempt employees of the state, including employees of the institutions of higher education. [1982 c 208 § 12.]

Severability—1982 c 208: See RCW 42.40.900.

Chapter 41.14

CIVIL SERVICE FOR SHERIFF'S OFFICE

Sections

41.14.120 Removal, suspension, demotion—Procedure—Appeal.

41.14.120 Removal, suspension, demotion—Procedure—Appeal. No person in the classified civil service who has been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, or demoted except for cause, and only upon written accusation of the appointing power or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, or demoted may within ten days from the time of his removal, suspension, or demotion, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. Upon receipt of the written demand for an investigation, the commission shall within ten days set a date for a public hearing which will be held within thirty days from the date of receipt. The investigation shall be confined to the determination of the question of whether the removal, suspension, or demotion was made in good faith for cause. After such investigation the commission shall render a written decision within ten days and may affirm the removal, or if it finds that removal, suspension, or demotion was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which he was removed, suspended, or demoted, which reinstatement shall, if the commission so provides, be retroactive, and entitle such person to pay or compensation from the time of the removal, suspension, or demotion. The commission upon such investigation, in lieu of affirming a removal, may modify the order by directing the suspension without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay. The findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to this section shall be by public hearing, after reasonable notice to the accused of the time and place thereof,

at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If order of removal, suspension, or demotion is concurred in by the commission or a majority thereof, the accused may appeal therefrom to the superior court of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of its order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to its order, be filed by the commission with the court. The commission shall, within ten days after the filing of the notice, make, certify, and file such transcript with the court. The court shall thereupon proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, or demotion made by the commission, was or was not made in good faith for cause, and no appeal shall be taken except upon such ground or grounds. The decision of the superior court may be appealed to the supreme court or the court of appeals. [1982 c 133 § 1; 1971 c 81 § 102; 1959 c 1 § 12 (Initiative Measure No. 23 § 12).]

Chapter 41.16

FIREMEN'S RELIEF AND PENSIONS—1947 ACT

Sections

41.16.050 Firemen's pension fund—How constituted.

41.16.050 Firemen's pension fund—How constituted. There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the firemen's pension fund, which shall consist of: (1) All bequests, fees, gifts, emoluments or donations given or paid thereto; (2) forty-five percent of all moneys received by the state from taxes on fire insurance premiums, except any such moneys received under RCW 48.14.020(3); (3) taxes paid pursuant to the provisions of RCW 41.16.060; (4) interest on the investments of the fund; and (5) contributions by firemen as provided for herein. The forty-five percent of moneys received from the tax on fire insurance premiums under the provisions of this chapter shall be distributed in the proportion that the number of paid firemen in the city, town or fire protection district bears to the total number of paid firemen throughout the state to be ascertained in the following manner: The secretary of the firemen's pension board of each city, town and fire protection district now or hereafter coming under the provisions of this chapter shall within thirty days after the taking effect of *this 1961 amendatory act and on or before the fifteenth day of January thereafter, certify to the state treasurer the number of paid firemen in the fire department in such city, town or fire protection district. The state treasurer shall on or before the first day of June of each year deliver to the treasurer of each city, town and fire protection district coming under the provisions of this chapter his warrant, payable to each city,

town or fire protection district for the amount due such city, town or fire protection district ascertained as herein provided and the treasurer of each such city, town or fire protection district shall place the amount thereof to the credit of the firemen's pension fund of such city, town or fire protection district. [1982 1st ex.s. c 35 § 16; 1967 c 42 § 1; 1961 c 255 § 8; 1949 c 45 § 1; 1947 c 91 § 5; Rem. Supp. 1949 § 9578-44. Prior: 1929 c 86 § 11; 1919 c 196 § 14.]

***Reviser's note:** The effective date of "this 1961 amendatory act" [1961 c 255] was midnight June 7, 1961; see preface 1961 session laws.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Insurance premiums taxes: RCW 48.14.020.

Chapter 41.24

VOLUNTEER FIREMEN'S RELIEF AND PENSIONS

Sections

- 41.24.030 State trust fund created—Composition—Investment—Use—Treasurer's report.
- 41.24.250 State board for volunteer firemen—Composition—Terms—Vacancies—Oath.

41.24.030 State trust fund created—Composition—Investment—Use—Treasurer's report.

There is created in the state treasury a trust fund for the benefit of the firemen of the state covered by this chapter, which shall be designated the volunteer firemen's relief and pension fund and shall consist of:

(1) All bequests, fees, gifts, emoluments, or donations given or paid to the fund.

(2) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording the members of its fire department with protection from death or disability as herein provided as follows:

(a) Three dollars for each volunteer or part-paid member of its fire department;

(b) A sum equal to one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970.

(3) Where a municipal corporation has elected to make available to the members of its fire department the retirement provisions as herein provided, an annual fee of thirty dollars for each of its firemen electing to enroll therein, ten dollars of which shall be paid by the municipality and twenty dollars of which shall be paid by the fireman.

(4) Forty percent of all moneys received by the state from taxes on fire insurance premiums, except any such moneys received under RCW 48.14.020(3), shall be paid into the state treasury and credited to the fund.

(5) The state investment board, upon request of the state treasurer shall invest such portion of the amounts credited to the fund as is not, in the judgment of the treasurer, required to meet current withdrawals. Such investments may be made in such bonds, notes or other

obligations now or hereafter authorized as an investment for the funds of the public employees' retirement system.

(6) All bonds or other obligations purchased according to subsection (5) of this section shall be forthwith placed in the custody of the state treasurer, and he shall collect the principal thereof and interest thereon when due.

The state investment board may sell any of the bonds or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.

The interest and proceeds from the sale and redemption of any bonds or other obligations held by the fund shall be credited to and form a part of the fund.

All amounts credited to the fund shall be available for making the payments required by this chapter.

The state treasurer shall make an annual report showing the condition of the fund. [1982 1st ex.s. c 35 § 17; 1981 c 3 § 26; 1973 1st ex.s. c 170 § 1; 1970 ex.s. c 6 § 19; 1967 c 160 § 2; 1957 c 116 § 1; 1955 c 223 § 1; 1945 c 261 § 3; Rem. Supp. 1945 § 9578-17. Prior: 1935 c 121 § 1; RRS § 9578-1.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Effective date—1973 1st ex.s. c 170: "This 1973 amendatory act shall take effect on July 1, 1973." [1973 1st ex.s. c 170 § 5.] This applies to the amendments to RCW 41.24.030, 41.24.170, 41.24.180 and 41.24.200 by 1973 1st ex.s. c 170.

Insurance premiums taxes: RCW 48.14.020.

41.24.250 State board for volunteer firemen—Composition—Terms—Vacancies—Oath.

There is established a state board for volunteer firemen to consist of three members of a fire department covered by this chapter, no two of whom shall be from the same congressional district, to be appointed by the governor to serve overlapping terms of six years. Of members first appointed, one shall be appointed for a term of six years, one for four years, and one for two years. Upon the expiration of a term, a successor shall be appointed by the governor for a term of six years. Any vacancy shall be filled by the governor for the unexpired term. Each member of the state board, before entering on the performance of his duties, shall take an oath that he will not knowingly violate or willingly permit the violation of any provision of law applicable to this chapter, which oath shall be filed with the secretary of state.

The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. [1982 1st ex.s. c 30 § 11; 1955 c 263 § 2.]

Chapter 41.26

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Sections

- 41.26.050 Repealed.

41.26.051	Law enforcement officers' and fire fighters' retirement board abolished—Transfer of powers, duties, and functions.
41.26.060	Director of retirement systems to administer system—Duties.
41.26.110	City and county disability boards authorized—Composition—Terms—Reimbursement for travel expenses—Duties.
41.26.290	Repealed.
41.26.425	Lump sum retirement allowance—Reentry—Limitation.
41.26.470	Earned disability allowance—Cancellation of allowance—Reentry.
41.26.540	Refund of contributions on termination.

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

41.26.051 Law enforcement officers' and fire fighters' retirement board abolished—Transfer of powers, duties, and functions. The Washington law enforcement officers' and fire fighters' retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 5.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

41.26.060 Director of retirement systems to administer system—Duties. The administration of this system is hereby vested in the director of retirement systems, and the director shall:

(1) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;

(2) As of March 1, 1970, and at least every two years thereafter, through its actuary, make an actuarial valuation as to the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;

(3) Adopt for the retirement system the mortality tables and such other tables as shall be deemed necessary;

(4) Keep a record of all its proceedings, which shall be open to inspection by the public;

(5) From time to time adopt such rules and regulations not inconsistent with this chapter, for the administration of the provisions of this chapter, for the administration of the fund created by this chapter and the several accounts thereof, and for the transaction of the business of the system;

(6) Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Washington law enforcement officers' and fire fighters' retirement system, and furnish a copy thereof to each employer, and to such members as may request copies thereof;

(7) Perform such other functions as are required for the execution of the provisions of this chapter;

(8) Fix the amount of interest to be credited at a rate which shall be based upon the net annual earnings of the

fund for the preceding twelve-month period and from time to time make any necessary changes in such rate;

(9) Pay from the department of retirement systems expense fund the expenses incurred in administration of the retirement system from those funds appropriated for that purpose;

(10) Perform any other duties prescribed elsewhere in this chapter;

(11) Issue decisions relating to appeals initiated pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended and shall be authorized to order increased benefits pursuant to RCW 41.16.145 and 41.18.104 as now or hereafter amended. [1982 c 163 § 6; 1981 c 3 § 27; 1975-'76 2nd ex.s. c 44 § 3; 1971 ex.s. c 216 § 1; 1969 ex.s. c 209 § 6.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Intent of amendment—1981 c 3: See note following RCW 2.10.080.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Effective date—1971 ex.s. c 216: See RCW 41.26.070(8).

Severability—1971 ex.s. c 216: "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." [1971 ex.s. c 216 § 4.] This applies to RCW 41.26.060, 41.26.070 and 41.26.085.

41.26.110 City and county disability boards authorized—Composition—Terms—Reimbursement for travel expenses—Duties. (1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board hereafter authorized to be created.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by said cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor, one fire fighter to be elected by the fire fighters employed by the city, one law enforcement officer to be elected by the law enforcement officers employed by the city and one member from the public at large who resides within the city to be appointed by the other four appointed members heretofore designated in this subsection. Beginning with the next election following February 19, 1974, the law enforcement officer member shall serve a one year term and the fire fighter member shall serve a two year term. Thereafter each of the elected members shall serve a two year term. The members appointed pursuant to this subsection shall serve for two year terms: *Provided*, That cities of the first class only, shall retain existing firemen's pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by fire fighters or law enforcement officers as provided under the Washington law enforcement officers' and fire fighters' retirement system act.

(b) Each county shall establish a disability board having jurisdiction over all members residing in the county and not employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body, one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to subsection (1)(a) of this section to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board, one fire fighter to be elected by the fire fighters employed in the county who are not employed by a city in which a disability board is established, one law enforcement officer to be elected by the law enforcement officers employed in the county who are not employed by a city in which a disability board is established, and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four appointed members heretofore designated in this subsection. All members appointed or elected pursuant to this subsection shall serve for two year terms.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but said members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter. [1982 c 12 § 1; 1974 ex.s. c 120 § 9; 1970 ex.s. c 6 § 6; 1969 ex.s. c 219 § 3; 1969 ex.s. c 209 § 11.]

Severability—1974 ex.s. c 120: See note following RCW 41.26.030.

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

41.26.425 Lump sum retirement allowance—Reentry—Limitation. (1) On or after June 10, 1982, the director may pay a beneficiary, as defined in RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.26.420 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, as defined in RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the

benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status as defined in RCW 41.04.040(2) reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) Only persons entitled to or receiving a service retirement allowance under RCW 41.26.420 or an earned disability allowance under RCW 41.26.470 qualify for participation under this section.

(5) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1982 c 144 § 1.]

41.26.470 Earned disability allowance—Cancellation of allowance—Reentry. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-eight.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.04 RCW, as now or hereafter amended. [1982 c 12 § 2; 1981 c 294 § 9; 1977 ex.s. c 294 § 8.]

Severability—1981 c 294: See note following RCW 41.26.115.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.400.

41.26.540 Refund of contributions on termination. A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.26.410 through 41.26.550. [1982 1st ex.s. c 52 § 5; 1977 ex.s. c 294 § 15.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.400.

Chapter 41.32

TEACHERS' RETIREMENT

Sections

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

(1) (a) "Accumulated contributions" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for persons who establish membership in the retirement system on or after October 1, 1977, means the sum of all contributions

standing to the credit of a member in the member's individual account together with the regular interest thereon.

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

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

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

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

(6) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

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

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

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

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(11) (a) "Earnable compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money: *Provided*, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit: *Provided further*, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the

employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(b) "Earnable compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, but shall exclude lump sum payments for deferred annual sick leave, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b) and 457 of the United States Internal Revenue Code, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: *Provided*, That retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit: *Provided further*, That in any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(i) the earnable compensation the member would have received had such member not served in the legislature; or

(ii) such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

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

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

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

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

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

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: *Provided*, That where a member is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

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

(19) "Pension reserve fund" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(20) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(21) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

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

(23) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the annuity fund. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(24) "Regular interest" means such rate as the director may determine.

(25) (a) "Retirement allowance" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for persons who establish membership in the retirement system on or after October 1, 1977, means monthly payments to a retiree or beneficiary as provided in this chapter.

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

(27) (a) "Service" means the time during which a member has been employed by an employer for compensation: *Provided*, That where a member is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which earnable compensation is earned for ninety or more hours per calendar month.

Members shall receive twelve months of service for each contract year or school year of employment.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive service credit for the time spent in a state elective position by making the required member contributions.

When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

Notwithstanding RCW 41.32.240, teachers covered by RCW 41.32.755 through 41.32.825, who render service need not serve for ninety days to obtain membership so long as the required contribution is submitted for such ninety-day period. Where a member did not receive service credit under RCW 41.32.775 through 41.32.825 due to the ninety-day period in RCW 41.32.240 the member may receive service credit for that period so long as the required contribution is submitted for the period. Anyone entering membership on or after October 1, 1977, and prior to July 1, 1979, shall have until June 30, 1980, to make the required contribution in one lump sum.

(28) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity, 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.

(30) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average earnable compensation of the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(31) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Retirement board" means the board of trustees provided for in *RCW 41.32.040. [1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 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.]

***Reviser's note:** RCW 41.32.040 was repealed by 1982 c 163 § 23. Powers, duties, and functions of the retirement board (board of trustees) were transferred to the director of retirement systems. See RCW 41.32.015.

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Effective date—Severability—1977 ex.s. c 293: See notes following RCW 41.32.750.

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 two foregoing annotations apply to RCW 41.32.010, 41.32.260, 41.32.495, 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.]

Reviser's note: (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "this 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and 41.32.495. The effective date of 1974 ex.s. c 199 is May 6, 1974.

Effective date—1969 ex.s. c 176: The effective date of the amendments to 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 two 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 two 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 three 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; to the 1963 repeal of RCW 41.32.270, 41.32.400 and 41.32.450; and to the 1963 enactment of RCW 41.32.365, 41.32.401, 41.32.497, 41.32.522 and 41.32.523.

41.32.015 Board of trustees abolished—Transfer of powers, duties, and functions. The retirement board (or board of trustees) established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 7.]

Severability—**Effective date**—1982 c 163: See notes following RCW 2.10.052.

41.32.030 Retirement system funds. All of the assets of the retirement system shall be credited according to the purposes for which they are held, to a fund to be maintained in the state treasury, namely, the teachers' retirement fund. In the records of the teachers' retirement system the teachers' retirement fund shall be subdivided into the annuity fund, the annuity reserve fund, the survivors' benefit fund, the pension reserve fund, the disability reserve fund, the death benefit fund, the income fund, the expense fund, and such other funds as may from time to time be created by the director for the purpose of the internal accounting record. [1982 1st ex.s. c 52 § 7; 1969 ex.s. c 150 § 1; 1963 ex.s. c 14 § 2; 1955 c 274 § 2; 1947 c 80 § 3; Rem. Supp. 1947 § 4995–28. Prior: 1941 c 97 § 2, part; 1937 c 221 § 3, part; 1923 c 187 § 5, part; Rem. Supp. 1941 § 4995–3, part.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Effective date—1969 ex.s. c 150: "The provisions of sections 1 through 20 of this 1969 amendatory act shall take effect on July 1, 1969." [1969 ex.s. c 150 § 21.] This applies to RCW 41.32.030, 41.32.070, 41.32.100, 41.32.120, 41.32.180, 41.32.200, 41.32.203, 41.32.220, 41.32.310, 41.32.330, 41.32.340, 41.32.405, 41.32.410, 41.32.480, 41.32.497, 41.32.500, 41.32.510, 41.32.522, 41.32.523 and 41.32.550.

Certain moneys payable during 1973–1975 biennium to be from interest earnings: RCW 41.32.4982.

41.32.040 through 41.32.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.32.380 Source of pension reserve fund—Contributions. There shall be placed in the pension reserve fund all appropriations made by the legislature for the purpose of paying pensions and survivors' benefits and of

establishing and maintaining an actuarial reserve and all gifts and bequests to the pension reserve fund, and contributions of persons entering the retirement system who have established prior service credit. Members establishing prior service credit shall contribute to the pension reserve fund as follows:

For the first ten years of prior service fifteen dollars per year;

For the second ten years of prior service thirty dollars per year;

For the third ten years of prior service forty-five dollars per year. [1982 1st ex.s. c 52 § 8; 1947 c 80 § 38; Rem. Supp. 1947 § 4995–57.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

41.32.401 Budget and appropriations—Transfers from state general fund. For the purpose of establishing and maintaining an actuarial reserve adequate to meet present and future pension liabilities of the system and to pay for one-half of the operating expenses of the system, the director shall compute the amount necessary to be appropriated during the next legislative session for transfer from the state general fund to the teachers' retirement system during the next biennium. Such computation shall provide for amortization of unfunded pension liabilities over a period of not more than fifty years from July 1, 1964. The amount thus computed as necessary shall be reported to the governor by the director for inclusion in the budget. The legislature shall make the necessary appropriation from the state general fund to the teachers' retirement system after considering the estimates as prepared and submitted, and shall appropriate from the teachers' retirement fund the amount to be expended during the next biennium for operating expenses. The transfer of funds from the state general fund to the retirement system shall be at a rate determined by the director on the basis of the latest valuation prepared by the state actuary, and shall include a percentage contribution of the total earnable compensation of the members for the biennium for which the appropriation is to be made, to be known as the "normal contribution," and an additional percentage contribution of such earnable compensation, to be known as the "unfunded liability contribution." Such transfers from the general fund shall be made before the end of each calendar quarter, except for the 1981–83 biennium such transfers from the general fund shall be made as provided in an act making an appropriation for the retirement system or as directed by rules promulgated under RCW 43.41.110(13). When payments are made less often than quarterly, the legislature shall appropriate additional amounts equal to the interest that would have been earned under a quarterly payment basis. The amounts transferred shall be distributed to the teachers' retirement fund for the payment of pensions, survivors' benefits and the state's share of the operating expenses for the system. The total amount of such transfers for a biennium shall not exceed the total amount appropriated by the legislature. [1982 1st ex.s. c 52 § 9; 1980 c 87 § 15; 1963 ex.s. c 14 § 11.]

Effective dates—1982 1st ex.s. c 52: "(1) Sections 9 and 34 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) The remainder of this act shall take effect July 1, 1982." [1982 1st ex.s. c 52 § 37.] Sections 9 and 34 of 1982 1st ex.s. c 52, which consist of the amendment of RCW 41.32.401 and the enactment of RCW 41.40.187, respectively, took effect April 20, 1982. The remainder of 1982 1st ex.s. c 52 consists of the amendment of RCW 2.10.180, 2.12.010, 2.12.020, 2.12.050, 41.26.540, 41.32.010, 41.32.030, 41.32.380, 41.32.405, 41.32.410, 41.32.460, 41.32.4943, 41.32.510, 41.32.567, 41.32.820, 41.40.100, 41.40.120, 41.40.150, 41.40.180, 41.40.370, 41.40.730, 43.43.120, 43.43.230, 43.43.250, 43.43.260, 43.43.270, 43.43.280, 43.43.290, and 43.43.310, the enactment of RCW 2.12.090 and 41.50.140, and the repeal of RCW 41.40.125, 43.43.150, 43.43.265, 43.43.266, and 43.43.267.

Saving—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.405 Income fund created—Source of funds.

An income fund is hereby created for the purpose of crediting regular interest and such other income as may be derived from the deposits and investments of the various funds of the teachers' retirement fund. All accumulated contributions in the account of a terminated employee except as provided for in RCW 41.32.500 (1) through (3), 41.32.510, 41.32.810, and 41.32.815 shall be transferred to the income fund. If the former employee, the former employee's beneficiary, or the former employee's estate at a future date requests the unclaimed contributions or reinstatement of the rights previously provided thereunder, the former employee's contributions shall be transferred from the income fund to the annuity fund and the former employee's account reestablished with all the rights which would have been due the former employee, the former employee's beneficiary, or the former employee's estate as if in fact the transfer to the income fund had not occurred. Any moneys that may come into the possession of the retirement system in the form of gifts or bequests which are not allocated to a specific fund, or any other moneys the disposition of which is not otherwise provided herein, shall be credited to the income fund. The moneys accumulated in the income fund shall be available for transfer, upon the director's authorization, to the department of retirement systems expense fund toward payment of the members' share of the operating costs of the system as provided in RCW 41.32.410, and for regular interest allowance to the various funds of the teachers' retirement fund; however, no interest may be credited to the pension fund: *Provided*, That from such accumulated moneys the director shall have sole discretion to determine an amount thereof to be credited to the annuity fund which will thereupon be credited as regular interest to the individual members' accounts except that any accrued interest shall be credited at least annually to the individual members' accounts. [1982 1st ex.s. c 52 § 11; 1973 1st ex.s. c 189 § 8; 1969 ex.s. c 150 § 12.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Severability—1973 1st ex.s. c 189: See note following RCW 41.32.190.

Effective date—1969 ex.s. c 150: See note following RCW 41.32.030.

41.32.410 Expense fund—Service charges. The director shall transfer from the pension fund and the income fund to the department of retirement systems expense fund amounts sufficient to defray the expenses of the retirement system: *Provided*, That the amounts transferred to the expense fund shall result in the state and the members of the system sharing equally in the operating costs of the system. The director shall have authority to assess a withdrawal fee and such other service charges as may be necessary to assist in providing for the members' contributions to the department of retirement systems expense fund. Any such withdrawal fee or other service charges shall be deducted from the member's annuity fund account during the year in which the assessment is made and all money received from such assessments shall be credited to the department of retirement systems expense fund toward payment of the members' share of the operating costs of the system. [1982 1st ex.s. c 52 § 12; 1969 ex.s. c 150 § 13; 1963 ex.s. c 14 § 12; 1955 c 274 § 19; 1947 c 80 § 41; Rem. Supp. 1947 § 4995–60. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995–7, part.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Effective date—1969 ex.s. c 150: See note following RCW 41.32.030.

41.32.460 Validity of deductions—Interest. The deductions from salaries of members of the retirement system for their contributions to the system are not considered diminution of pay and every member is conclusively presumed to consent thereto as a condition of employment. All contributions to the annuity fund shall be credited to the individual for whose account the deductions from salary were made. Regular interest shall be credited to each member's account at least annually. [1982 1st ex.s. c 52 § 13; 1947 c 80 § 46; Rem. Supp. 1947 § 4995–65. Prior: 1941 c 97 § 5, part; 1939 c 86 § 5, part; 1937 c 221 § 6, part; Rem. Supp. 1941 § 4995–6, part.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

41.32.4943 Funds required for payment of certain benefits 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, 41.32.550, and 41.32.567 shall be provided in accordance with RCW 41.32.401. [1982 1st ex.s. c 52 § 14; 1975 1st ex.s. c 148 § 1; 1972 ex.s. c 147 § 3; 1970 ex.s. c 35 § 7.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

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

Effective date—Severability—1970 ex.s. c 35: See notes following RCW 41.32.480.

41.32.4985 Employer liable for extra pension costs attributable to compensation in excess of average certificated salary increases. The department of retirement systems shall make a review of each member employed by a school district being retired on and after July 1, 1982, and whose benefits are determined by RCW 41.32.497 or 41.32.498. The purpose of the review is to identify any retiree whose average annual earnable compensation for purposes of determining retirement benefits exceeds the average annual earnable compensation during the two year period immediately preceding the years used in computing retirement benefits by more than the percentage increase determined as set forth in subsection (1) of this section.

(1) For the retirees average final compensation period, the basis for making the comparison required by this section, shall be a percentage increase equal to one percentage point in excess of the average percentage salary increase granted to certificated employees of such employees district in accordance with the state operating appropriations act in effect at the time the salary is payable, adjusted for incremental increases for seniority and educational attainment and staff position changes.

(2) For all retirees identified in this section, the department of retirement systems shall calculate the increase in the basic retirement benefit which results from any increase in salary granted an employee in excess of the district average certificated salary increase. The department of retirement systems will then, utilizing tables developed by the state actuary, determine the extra pension cost attributable to exceeding such average and shall bill the retiree's employer who shall remit the entire amount determined to the retirement system within thirty days, except that the director of the department of retirement systems shall be empowered to omit billing an amount less than fifty dollars.

(3) Any post-retirement increases resulting from the excess benefit identified in subsection (2) of this section shall be billed to the last employer as they occur on the basis set forth in subsection (2) of this section. [1982 1st ex.s. c 10 § 2.]

Severability—1982 1st ex.s. c 10: See note following RCW 28A.58.098.

41.32.510 Payment on withdrawal—Reentry. Should a member cease to be employed by an employer and request upon a form provided by the department a refund of the member's accumulated contributions with interest, this amount shall be paid to the individual less any withdrawal fee which may be assessed by the director which shall be deposited in the department of retirement systems expense fund. The amount withdrawn, together with interest as determined by the director must be paid if the member desires to reestablish the former service credits. Termination of employment with one employer for the specific purpose of accepting employment with another employer or termination with one employer and reemployment with the same employer, whether for the same school year or for the ensuing school year, shall not qualify a member for a refund of the member's accumulated contributions. A member

who files an application for a refund of the member's accumulated contributions and subsequently enters into a contract for or resumes public school employment before a refund payment has been made shall not be eligible for such payment. [1982 1st ex.s. c 52 § 15; 1969 ex.s. c 150 § 17; 1963 ex.s. c 14 § 17; 1955 c 274 § 24; 1947 c 80 § 51; Rem. Supp. 1947 § 4995-70. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6, part; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Effective date—1969 ex.s. c 150: See note following RCW 41.32.030.

Saving—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.567 Increase in pension portion of retirement allowance. (1) Effective July 1, 1974, the pension portion of the retirement allowance being paid to all retirees who retired on or before June 30, 1970, shall be increased in an amount equal to 11.9 percent of that portion.

(2) Effective July 1, 1974, the pension portion of the retirement allowance being paid to all retirees who retired on or after July 1, 1970 through and including June 30, 1973, shall be increased in an amount equal to 2.9 percent of that portion.

(3) Solely for the purposes of RCW 41.32.499, the initial date of payment of the pension portion of the retirement allowance which is increased by this section shall be deemed to be July 1, 1973. [1982 1st ex.s. c 52 § 16; 1974 ex.s. c 193 § 8.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Emergency—Severability—1974 ex.s. c 193: See notes following RCW 41.32.310.

41.32.590 Exemption from taxation and judicial process—Exceptions—Nonassignability—Deductions authorized. (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, a retirement allowance, or disability allowance, to the return of contributions, any optional benefit or death benefit, any other right accrued or accruing to any person under the provisions of this chapter and the moneys in the various funds created by this chapter shall be unassignable, and are hereby exempt from any state, county, municipal or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance who is eligible:

(a) Under RCW 41.05.080 from authorizing monthly deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions;

(b) Under a group health care benefit plan approved pursuant to RCW 28A.58.420 or 41.05.025 from authorizing monthly deductions therefrom, of the amount or

amounts of subscription payments, premiums, or contributions to any person, firm, or corporation furnishing or providing medical, surgical, and hospital care or other health care insurance; or

(c) Under the Washington state teachers' retirement system from authorizing monthly deductions therefrom for payment of dues and other membership fees to any retirement association composed of retired teachers and/or public employees pursuant to a written agreement between the director and the retirement association.

Deductions under (a) and (b) of this subsection shall be made in accordance with rules and regulations that may be promulgated by the director of retirement systems.

(3) Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation. [1982 c 135 § 1; 1981 c 294 § 13; 1979 ex.s. c 205 § 5; 1971 c 63 § 1; 1961 c 132 § 5; 1947 c 80 § 59; Rem. Supp. 1947 § 4995-78. Prior: 1937 c 22 § 9; 1917 c 163 § 19.]

Severability—1981 c 294: See note following RCW 41.26.115.

Effective date—1961 c 132: See note following RCW 41.32.240.

Payment of retirement benefits pursuant to court decree or order of dissolution or legal separation—Effect of death of recipient; payment sufficient answer to claim of beneficiary against department; application of act: RCW 41.04.310, 41.04.320, and 41.04.330.

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

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

41.32.762 Lump sum retirement allowance—Re-entry—Limitation. (1) On or after June 10, 1982, the director may pay a beneficiary, as defined in RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.32.760 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, as defined in RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status as defined in RCW 41.04.040(2) reinstate all previous

service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) Only persons entitled to or receiving a service retirement allowance under RCW 41.32.760 or an earned disability allowance under RCW 41.32.790 qualify for participation under this section.

(5) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1982 c 144 § 2.]

41.32.820 Refund of contributions on termination. A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the members accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all benefits under the provisions of RCW 41.32.755 through 41.32.825. [1982 1st ex.s. c 52 § 17; 1977 ex.s. c 293 § 15.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Effective date—Severability—Legislative direction and placement—Section headings—1977 ex.s. c 293: See notes following RCW 41.32.750.

Chapter 41.40

WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sections

41.40.022	Retirement board abolished—Transfer of powers, duties, and functions.
41.40.030	through 41.40.060 Repealed.
41.40.100	System funds created.
41.40.120	Membership.
41.40.125	Repealed.
41.40.150	Termination of membership.
41.40.180	Retirement—Length of service.
41.40.187	Employer liable for extra pension costs attributable to compensation in excess of average percentage general salary increases.
41.40.200	Retirement for disability in line of duty—Applicability to certain judges.
41.40.230	Nonduty disability—Applicability to certain judges.
41.40.370	Employer's contribution—Computation—Billing.
41.40.380	Exemption from taxation and judicial process—Exceptions—Assignability.
41.40.390	Repealed.

- 41.40.625 Lump sum retirement allowance—Reentry—
Limitation.
- 41.40.670 Earned disability allowance—Applicability to certain
judges.
- 41.40.730 Refund of contributions.

41.40.022 Retirement board abolished—Transfer of powers, duties, and functions. The retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 8.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

41.40.030 through 41.40.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.40.100 System funds created. For the purpose of the internal accounting record of the retirement system and not the segregation of moneys on deposit with the state treasurer there are hereby created the employees' savings fund, the benefit account fund, the income fund and such other funds as may from time to time be required.

(1) The employees' savings fund shall be the fund in which shall be accumulated the contributions from the compensation of members. The director shall provide for the maintenance of an individual account for each member of the retirement system showing the amount of the member's contributions together with interest accumulations thereon. The contributions of a member returned to the former employee upon the individual's withdrawal from service, or paid in event of the employee's or former employee's death, as provided in this chapter, shall be paid from the employees' savings fund. The accumulated contributions of a member, upon the commencement of the individual's retirement, shall be transferred from the employees' savings fund to the benefit account fund.

(2) The benefit account fund shall be the fund in which shall be accumulated the reserves for the payment of all retirement allowances and death benefits, if any, in respect of any beneficiary. The amounts contributed by all employers to provide pension benefits shall be credited to the benefit account fund. The benefit account fund shall be the fund from which shall be paid all retirement allowances, or benefits in lieu thereof because of which reserves have been transferred from the employees' savings fund to the benefit account fund. At the time a recipient of a retirement allowance again becomes a member there shall be transferred from the benefit account fund to the employees' savings fund and credited to the individual account of such a member a sum that shall be equal to the excess, if any, of the individual's account at the date of the member's retirement over any service retirement allowance received since that date.

(3) An income fund is hereby created for the purpose of crediting interest on the amounts in the various other funds with the exception of the department of retirement

systems expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. The director shall determine when a distribution of interest and other earnings of the retirement system shall take place. The amounts to be credited and the methods for distribution to each of the funds enumerated in subsections (1) and (2) of this section and for special requirements previously mentioned in this subsection shall be at the director's discretion.

All accumulated contributions standing to the account of a terminated member except as provided in RCW 41.40.150 (3) and (5), 41.40.170, 41.40.710, and 41.40.720 shall be transferred from the employees' savings fund to the income fund. If the former employee, the former employee's beneficiary, or the former employee's estate at a future date requests the unclaimed contributions or reinstatement of the rights previously provided thereunder, the former employee's contributions shall be transferred from the income fund to the savings fund and the former employee's account reestablished with all the rights which would have been due the former employee, the former employee's beneficiary, or the former employee's estate as if in fact the transfer to the income fund had not occurred. All income, interest, and dividends derived from the deposits and investments authorized by this chapter shall be paid into the income fund with the exception of interest derived from sums deposited in the department of retirement systems expense fund. The director on behalf of the retirement system is hereby authorized to accept gifts and bequests. Any funds that may come into the possession of the retirement system in such manner, or any funds which may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by this chapter, or any other moneys the disposition of which is not otherwise provided for, shall be credited to the income fund. [1982 1st ex.s. c 52 § 18; 1973 1st ex.s. c 190 § 4; 1972 ex.s. c 151 § 2; 1967 c 127 § 2; 1963 c 174 § 7; 1953 c 200 § 4; 1949 c 240 § 6; 1947 c 274 § 11; Rem. Supp. 1949 § 11072-11.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

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

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, 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 director, 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 director, 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 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;

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

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

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

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

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

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

(11) Employees of a labor guild, association, or organization: *Provided*, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

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

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: *Provided*, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under the first proviso of this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from transferring all of its current employees to the retirement system established under this chapter. Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: *Provided*, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within

thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application. [1982 1st ex.s. c 52 § 19; 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.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

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

Severability—1974 ex.s. c 195: "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 195 § 14.] This applies to the amendments to RCW 41.40.030, 41.40.120, 41.40.150 and 41.40.380, and to the enactment of RCW 41.40.515 through 41.40.522.

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

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

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.

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

41.40.150 Termination of membership. Should any member die, or should the individual separate or be separated from service without leave of absence before attaining age sixty years, or should the individual become a beneficiary, except a beneficiary of an optional retirement allowance as provided by RCW 41.40.185 or 41.40.190, the individual shall thereupon cease to be a member except;

(1) As provided in RCW 41.40.170.

(2) An employee not previously retired who reenters service shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions with interest as computed by the director, which restoration must be completed within a total period of five years of membership service following the member's first resumption of employment, be returned to the status, either as an original member or new member which the member held at time of separation.

(3) A member who separates or has separated after having completed at least five years of service shall remain a member during the period of absence from service for the exclusive purpose of receiving a retirement allowance to begin at attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty-five: *Provided*, That if such member should withdraw all or part of the member's

accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply.

(4) (a) The recipient of a retirement allowance who is employed in an eligible position other than under RCW 41.40.120(12) shall be considered to have terminated his or her retirement status and shall immediately become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended during the period of eligible employment and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: *Provided*, That where any such right to retire is exercised to become effective before the member has rendered two uninterrupted years of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed;

(b) The recipient of a retirement allowance elected to office or appointed to office directly by the governor, and who shall apply for and be accepted in membership as provided in RCW 41.40.120(3) shall be considered to have terminated his or her retirement status and shall become a member of the retirement system with the status of membership the member held as of the date of retirement. Retirement benefits shall be suspended from the date of return to membership until the date when the member again retires and the member shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180: *Provided*, That where any such right to retire is exercised to become effective before the member has rendered six uninterrupted months of service the type of retirement allowance the member had at the time of the member's previous retirement shall be reinstated, but no additional service credit shall be allowed: *And provided further*, That if such a recipient of a retirement allowance does not elect to apply for reentry into membership as provided in RCW 41.40.120(3), the member shall be considered to remain in a retirement status and the individual's retirement benefits shall continue without interruption.

(5) Any member who leaves the employment of an employer and enters the employ of a public agency or agencies of the state of Washington, other than those within the jurisdiction of the Washington public employees' retirement system, and who establishes membership in a retirement system or a pension fund operated by such agency or agencies and who shall continue membership therein until attaining age sixty, shall remain a member for the exclusive purpose of receiving a retirement allowance without the limitation found in RCW 41.40.180(1) to begin on attainment of age sixty-five, however, such a member may on written notice to the director elect to receive a reduced retirement allowance on or after age sixty which allowance shall be the actuarial equivalent of the sum necessary to pay regular

retirement benefits commencing at age sixty-five: *Provided*, That if such member should withdraw all or part of the member's accumulated contributions except those additional contributions made pursuant to RCW 41.40.330(2), the individual shall thereupon cease to be a member and this section shall not apply. [1982 1st ex.s. c 52 § 20; 1979 ex.s. c 249 § 10; 1974 ex.s. c 195 § 3; 1973 1st ex.s. c 190 § 6; 1969 c 128 § 6; 1967 c 127 § 4; 1965 c 155 § 3; 1963 c 174 § 8; 1955 c 277 § 3; 1953 c 200 § 7; 1951 c 50 § 3; 1949 c 240 § 10; 1947 c 274 § 16; Rem. Supp. 1949 § 11072-16.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Severability—1974 ex.s. c 195: See note following RCW 41.40.120.

Effective date of certain subsections—1973 1st ex.s. c 190: See RCW 41.40.011 and note following RCW 41.32.565.

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

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

41.40.180 Retirement—Length of service. (1) Any member with five years of creditable service who has attained age sixty and any original member who has attained age sixty may retire on written application to the director, setting forth at what time the member desires to be retired: *Provided*, That in the national interest, during time of war engaged in by the United States, the director may extend beyond age sixty, subject to the provisions of subsection (2) of this section, the age at which any member may be eligible to retire.

(2) Any member who has completed thirty years of service may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(3) Any member who has completed twenty-five years of service and attained age fifty-five may retire on written application to the director setting forth at what time the member desires to be retired, subject to war measures.

(4) Any individual who is eligible to retire pursuant to subsections (1) through (3) of this section shall be allowed to retire while on any authorized leave of absence not in excess of one hundred and twenty days. [1982 1st ex.s. c 52 § 21; 1973 1st ex.s. c 190 § 7; 1972 ex.s. c 151 § 4; 1971 ex.s. c 271 § 7; 1967 c 127 § 5; 1963 c 174 § 11; 1955 c 277 § 4; 1953 c 200 § 10; 1951 c 81 § 1; 1949 c 240 § 13; 1947 c 274 § 19; Rem. Supp. 1949 § 11072-19.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

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

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

41.40.187 Employer liable for extra pension costs attributable to compensation in excess of average percentage general salary increases. The department of retirement systems shall make a review of each member employed by an employer being retired on and after July 1, 1982, and whose benefits are determined by RCW

41.40.185. The purpose of the review is to identify any retiree whose average compensation earnable for purposes of determining retirement benefits exceeds the average annual compensation during the two-year period immediately preceding the years used in computing retirement benefits by more than the percentage increase determined in subsection (1) of this section.

(1) For the retiree's average final compensation period, the basis for making the comparison required by this section shall be a percentage increase equal to one percentage point in excess of each of the average percentage general salary increases granted during such average final compensation period to all employees of that employer who are members of the retirement system under this chapter, adjusted for incremental increases for seniority and/or performance, and staff position changes.

(2) For all retirees identified in this section, the department shall calculate the increase in the basic retirement benefit which results from any increase in salary granted an employee in excess of the authorized salary increase. The department will then, utilizing tables developed by the state actuary, determine the extra pension cost attributable to exceeding such average and shall bill the retiree's employer, who shall remit the entire amount determined to the retirement system within thirty days, except that the director is empowered to omit billing for an amount less than fifty dollars.

(3) Any post-retirement increases resulting from the excess benefit identified in subsection (2) of this section shall be billed to the last employer as they occur on the basis set forth in subsection (2) of this section. [1982 1st ex.s. c 52 § 34.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

41.40.200 Retirement for disability in line of duty—Applicability to certain judges. (1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his employer, a member who becomes totally incapacitated for duty as the natural and proximate result of an accident occurring in the actual performance of duty, while in the service of an employer, without wilful negligence on his part, shall be retired: *Provided*, The medical adviser after a medical examination of such member made by or under the direction of the said medical adviser shall certify in writing that such member is mentally or physically totally incapacitated for the further performance of his duty to his employer and that such member should be retired: *Provided further*, That the retirement board concurs in the recommendation of the medical adviser: *And provided further*, No application shall be valid or a claim thereunder enforceable unless filed within two years after the date upon which the injury occurred.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered

a retirement under subsection (1) of this section. [1982 c 18 § 3; 1955 c 277 § 5; 1951 c 50 § 6; 1949 c 240 § 15; 1947 c 274 § 21; Rem. Supp. 1949 § 11072-21.]

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the state Constitution.

41.40.230 Nonduty disability—Applicability to certain judges. (1) Subject to the provisions of RCW 41.40.310 and 41.40.320, upon application of a member, or his employer, a member who has been an employee at least five years, and who becomes totally and permanently incapacitated for duty as the result of causes occurring not in the performance of his duty, may be retired by the retirement board: *Provided*, The medical adviser, after a medical examination of such member, made by or under the direction of the said medical adviser shall certify in writing that such member is mentally or physically incapacitated for the further performance of duty, and such incapacity is likely to be permanent and that such member should be retired: *Provided further*, That the retirement board concurs in the recommendation of the medical adviser.

(2) The retirement for disability of a judge, who is a member of the retirement system and who has been an employee at least five years, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section. [1982 c 18 § 4; 1969 c 128 § 9; 1951 c 50 § 7; 1949 c 240 § 17; 1947 c 274 § 24; Rem. Supp. 1949 § 11072-24.]

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the state Constitution.

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

41.40.370 Employer's contribution—Computation—Billing. (1) The director shall ascertain and report to each employer the contribution rates necessary to meet present and future pension liabilities of the system for the ensuing biennium or fiscal year, whichever is applicable. The amount to be so provided shall be computed by applying the rates of contribution as established by RCW 41.40.361 or 41.40.650 to an estimate of the total compensation earnable of all the said employer's members during the period for which provision is to be made.

(2) Beginning April 1, 1949, or October 1, 1977, as the case may be, the amount to be collected as the employer's contribution shall be computed by applying the applicable rates established by RCW 41.40.361 or 41.40.650 to the total compensation earnable of employer's members as shown on the current payrolls of the said employer. Each said employer shall compute at the end of each month the amount due for that month and the same shall be paid as are its other obligations.

(3) In the event of failure, for any reason, of an employer other than a political subdivision of the state to have remitted amounts due for membership service of

any of the employer's members rendered during a prior biennium, the director shall bill such employer through the director of financial management for such employer's contribution together with such charges as the director deems appropriate in accordance with RCW 41.50.120. Such billing shall be paid by the employer as, and the same shall be, a proper charge against any moneys available or appropriated to such employer for payment of current biennial payrolls. [1982 1st ex.s. c 52 § 22; 1979 c 151 § 63; 1977 ex.s. c 295 § 20; 1963 c 126 § 1; 1961 c 291 § 12; 1949 c 240 § 26; 1947 c 274 § 38; Rem. Supp. 1947 § 11072-38.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

41.40.380 Exemption from taxation and judicial process—Exceptions—Assignability. (1) Subject to subsections (2) and (3) of this section, the right of a person to a pension, an annuity, or retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all moneys and investments and income thereof, are hereby exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable.

(2) This section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington or its political subdivisions and which has been approved for deduction in accordance with rules and regulations that may be promulgated by the state employees' insurance board and/or the department of retirement systems, and this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of dues and other membership fees to any retirement association or organization the membership of which is composed of retired public employees, if a total of three hundred or more of such retired employees have authorized such deduction for payment to the same retirement association or organization.

(3) Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation. [1982 c 135 § 2; 1981 c 294 § 14; 1979 ex.s. c 205 § 6; 1974 ex.s. c 195 § 4; 1967 c 127 § 6; 1947 c 274 § 39; Rem. Supp. 1947 § 11072-39.]

Severability—1981 c 294: See note following RCW 41.26.115.

Severability—1974 ex.s. c 195: See note following RCW 41.40.120.

Payment of retirement benefits pursuant to court decree or order of dissolution or legal separation—Effect of death of recipient; payment sufficient answer to claim of beneficiary against department; application of act: RCW 41.04.310, 41.04.320, and 41.04.330.

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

41.40.625 Lump sum retirement allowance—Re-entry—Limitation. (1) On or after June 10, 1982, the director may pay a beneficiary, as defined in RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW 41.40.620 would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) A beneficiary, as defined in RCW 41.04.040(3), subject to the provisions of subsection (4) of this section, who is receiving a regular monthly benefit of less than fifty dollars may request, in writing, to convert from a monthly benefit to a lump sum payment. If the director approves the conversion, the calculation of the actuarial equivalent of the total estimated regular benefit will be computed based on the beneficiary's age at the time the benefit initially accrued. The lump sum payment will be reduced to reflect any payments received on or after the initial benefit accrual date.

(3) Persons covered under the provisions of subsection (1) of this section may upon returning to member status as defined in RCW 41.04.040(2) reinstate all previous service by depositing the lump sum payment received, with interest as computed by the director, within two years of returning to service or prior to re-retiring, whichever comes first. In computing the amount due, the director shall exclude the accumulated value of the normal payments the member would have received while in beneficiary status if the lump sum payment had not occurred.

(4) Only persons entitled to or receiving a service retirement allowance under RCW 41.40.620 or an earned disability allowance under RCW 41.40.670 qualify for participation under this section.

(5) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from this system. [1982 c 144 § 3.]

41.40.670 Earned disability allowance—Applicability to certain judges. (1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the department upon recommendation of the retirement board shall be eligible to receive an allowance under the provisions of RCW 41.40.610 through 41.40.740. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.40.620 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such

a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, such member shall cease to be eligible for such allowance.

(2) The retirement for disability of a judge, who is a member of the retirement system, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section. [1982 c 18 § 5; 1977 ex.s. c 295 § 8.]

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the state Constitution.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.600.

41.40.730 Refund of contributions. A member who ceases to be an employee of an employer except by service or disability retirement may request a refund of the member's accumulated contributions. The refund shall be made within ninety days following the receipt of the request and notification of termination through the contribution reporting system by the employer; except that in the case of death, an initial payment shall be made within thirty days of receipt of request for such payment and notification of termination through the contribution reporting system by the employer. A member who files a request for refund and subsequently enters into employment with another employer prior to the refund being made shall not be eligible for a refund. The refund of accumulated contributions shall terminate all rights to benefits under RCW 41.40.610 through 41.40.740. [1982 1st ex.s. c 52 § 23; 1977 ex.s. c 295 § 14.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.600.

Chapter 41.50

DEPARTMENT OF RETIREMENT SYSTEMS

Sections

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| 41.50.032 | Transfer of powers, duties, and functions of certain boards to director of retirement systems—State advisory committee created—Chairperson—Subcommittees—Disability appeals. |
| 41.50.130 | Correction of retirement systems' records—Adjustment in payment of benefits—Limitations. |
| 41.50.140 | Cooperation of employers in administration of systems—Employer contributions for retroactive service credit—Employee contributions paid by employer. |

41.50.032 Transfer of powers, duties, and functions of certain boards to director of retirement systems—State advisory committee created—Chairperson—Subcommittees—Disability appeals. (1) The director shall assume all powers, duties, and functions of the retirement boards abolished by RCW 2.10.052, 41.26.051, 41.32.015, 41.40.022, and 43.43.142 except as otherwise assigned in this section.

(2) There is hereby created a state advisory committee to the department of retirement systems which shall serve in an advisory capacity to the director of retirement systems. The committee shall consist of twelve members appointed by the governor as provided in this section:

(a) Three active members and one retired member of the public employees' retirement system;

(b) Two active members, one a law enforcement officer and the other a fire fighter, and one retired fire fighter, of the law enforcement officers' and fire fighters' retirement system;

(c) Two active members, one a teacher and the other an administrator, and one retired member of the teachers' retirement system;

(d) One active member of the state patrol retirement system;

(e) One active member of the judicial retirement system.

The active members appointed under subsections (a), (b), (c), and (d) of this subsection shall be selected from a list of three nominees submitted by each organization representing active members. The retired members appointed under subsections (a), (b), and (c) of this subsection shall be selected from a list of three nominees submitted by each organization representing retired members. The member appointed under subsection (e) of this subsection shall be appointed from a list of three nominees submitted by the state supreme court.

Members shall serve staggered three-year terms as determined by the governor. Members shall serve without compensation but shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) The advisory committee shall at its first meeting of each fiscal year elect a chairperson and vice chairperson.

(4) The chairperson shall annually appoint from the committee members a subcommittee for each retirement system covered by this chapter. Each subcommittee shall have one committee member representing the system for which appointed and two other committee members who represent any other system. The subcommittees shall meet upon the call of the director to review all disability appeals cases which have been heard by a hearings examiner. Having considered the report of the hearings examiner and all other legally pertinent material, the subcommittee shall make a recommendation to the director for the disposition of the appeal. [1982 c 163 § 9.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

41.50.130 Correction of retirement systems' records—Adjustment in payment of benefits—Limitations. (1) The director may at any time correct errors appearing in the records of the retirement systems listed in RCW 41.50.030. Should any error in such records result in any member or beneficiary receiving more or less than he or she would have been entitled to had the records been correct, the director, subject to the conditions

set forth in subsection (2) of this section, shall adjust the payment in such a manner that the benefit to which such member or beneficiary was correctly entitled shall be paid in accordance with the following:

(a) In the case of underpayments to a member or beneficiary, the retirement system shall correct all future payments from the point of error detection, and shall compute the additional payment due for the allowable prior period which shall be paid in a lump sum by the appropriate retirement system.

(b) In the case of overpayments to a member or beneficiary, the retirement system shall adjust the payment in such a manner that the benefit to which such member or beneficiary was correctly entitled shall be reduced by an amount equal to the actuarial equivalent of the amount of overpayment. Alternatively the member shall have the option of repaying the overpayment in a lump sum within ninety days of notification and receive the proper benefit in the future.

(2) (a) Except as provided in subsection (2)(b) of this section, in the case of overpayments to a member or beneficiary, the benefits shall be adjusted to reflect only the amount of overpayments made within three years of discovery of the error, notwithstanding any provision to the contrary in chapter 4.16 RCW.

(b) In the case of underpayments or overpayments to a member or beneficiary resulting from actual fraud on the part of the member or beneficiary, the benefits shall be adjusted to reflect the full amount of such underpayment or overpayment, plus interest at the rate that was specified in RCW 4.56.110 for each year that the overpayment or underpayment occurred.

(c) Except in the case of actual fraud, no monthly benefit shall be reduced by more than fifty percent of the member's or beneficiary's corrected benefit.

(3) Except as provided in subsection (2)(a) of this section, obligations of employers or members until paid to the department shall constitute a debt from the employer or member to the department, recovery of which shall not be barred by laches or statutes of limitation. [1982 c 13 § 1.]

41.50.140 Cooperation of employers in administration of systems—Employer contributions for retroactive service credit—Employee contributions paid by employer. (1) Every employer participating in one or more of the retirement systems listed in RCW 41.50.030 shall fully cooperate in the administration of the systems in which its employees participate, including the distribution of information to employees, and shall accept and carry out all other duties as required by law, regulation, or administrative instruction.

(2) If an employee is entitled to retroactive service credit which was not previously established through no fault of the employee, or through an employer error which has caused a member's compensation or contributions to be understated or overstated so as to cause a loss to the retirement funds, the director may bill the employer for the loss, to include interest, if applicable. The employer contributions, with interest thereon, will be treated as if in fact the interest was part of the normal

employer contribution and no distribution of interest received shall be required.

(3) Employer-paid employee contributions will not be credited to a member's account until the employer notifies the director in writing that the employer has been reimbursed by the employee or beneficiary for the payment. The employer shall have the right to collect from the employee the amount of the employee's obligation. Failure on the part of the employer to collect all or any part of the sums which may be due from the employee or beneficiary shall in no way cause the employer obligation for the total liability to be lessened. [1982 1st ex.s. c 52 § 33.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Chapter 41.60

STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY

Sections

41.60.010	Definitions.
41.60.015	Productivity board created—Members—Terms.
41.60.020	Employee suggestion program—Rules for administration of chapter.
41.60.030	Employee suggestion program—Determination of award.
41.60.040	Repealed.
41.60.041	Employee suggestion program—Calculation of award—Transfer of funds to department of personnel.
41.60.050	Administrative expenses.
41.60.060	Repealed.
41.60.070	Repealed.
41.60.080	Employee suggestion program—Contests to encourage participation.
41.60.100	Employee incentive pay program—Applications.
41.60.110	Employee incentive pay program—Evaluation of savings.
41.60.120	Employee incentive pay program—Award.
41.60.130	Employee incentive pay program—Annual status report.
41.60.140	Incentive pay or awards not included in retirement calculations.
41.60.900	Decodified.
41.60.905	Decodified.

Reviser's note—Sunset Act application: This chapter is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.255.

41.60.010 Definitions. As used in this chapter:

- (1) "Board" means the productivity board.
- (2) "Employee suggestion program" means the program developed by the board under RCW 41.60.020.
- (3) "State employees" means employees subject to chapter 41.06 or 28B.16 RCW. [1982 c 167 § 6; 1977 ex.s. c 169 § 103; 1969 ex.s. c 152 § 3; 1965 ex.s. c 142 § 1.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

41.60.015 Productivity board created—Members—Terms. (1) There is hereby created the productivity board. The board shall administer the employee suggestion program under this chapter and shall review applications for incentive pay for state employees under RCW 41.60.100, 41.60.110, and 41.60.120.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) The state auditor;

(c) The director of financial management; and

(d) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees, but no one organization may be represented for two consecutive terms.

Initially, the person appointed by the governor shall serve a one-year term, the person appointed by the lieutenant governor shall serve a two-year term, and the person appointed by the speaker shall serve a three-year term. Thereafter, these members shall serve three-year terms. [1982 c 167 § 1.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: "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." [1982 c 167 § 18.]

41.60.020 Employee suggestion program—Rules for administration of chapter. (1) The board shall formulate, establish, and maintain an employee suggestion program to encourage and reward meritorious suggestions by state employees that will promote efficiency and economy in the performance of any function of state government: *Provided*, That the program shall include provisions for the processing of suggestions having multi-agency impact and post-implementation auditing of suggestions for fiscal accountability.

(2) The board shall adopt rules and regulations necessary or appropriate for the proper administration and for the accomplishment of the purposes of this chapter. [1982 c 167 § 7; 1975-'76 2nd ex.s. c 122 § 1; 1969 ex.s. c 152 § 4; 1965 ex.s. c 142 § 2.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.030 Employee suggestion program—Determination of award. The board shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award.

No employee suggestion award may normally be made to an employee for a suggestion which is within the scope of the employee's regularly assigned responsibilities. [1982 c 167 § 8; 1965 ex.s. c 142 § 3.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

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

41.60.041 Employee suggestion program—Calculation of award—Transfer of funds to department of personnel. (1) Cash awards for suggestions generating net savings to the state shall be calculated on a sliding scale percentage basis in the following manner:

- (a) Ten percent of the first ten thousand dollars;
- (b) Eight percent of the next twenty thousand dollars;
- (c) Six percent of the next thirty thousand dollars;
- (d) Four percent of the next forty thousand dollars; and
- (e) Two percent of all amounts in excess of one hundred thousand dollars.

(2) No award may be granted in excess of ten thousand dollars.

(3) If the suggestion is significantly modified when implemented, the percentages specified in subsection (1) of this section may be decreased at the option of the board.

(4) The board shall establish guidelines for making cash awards for suggestions for which benefits to the state are intangible or for which benefits cannot be calculated.

(5) Funds for the awards shall be drawn from the appropriation of the agency benefiting from the employee's suggestion. In addition to the amount awarded, the agency shall transfer two percent of the savings to the department of personnel for deposit in the department of personnel service fund. Moneys so transferred shall be used exclusively for the operations of the productivity board. Any moneys remaining unexpended at the end of the fiscal biennium shall revert to the original fund source. [1982 c 167 § 9.]

Sunset Act Application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.050 Administrative expenses. Administrative expenses of the board in administering this chapter shall not exceed fifty thousand dollars per year and shall be paid from the department of personnel service fund. [1982 c 167 § 11; 1975-'76 2nd ex.s. c 122 § 3; 1969 ex.s. c 152 § 6; 1965 ex.s. c 142 § 5.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

Department of personnel service fund: RCW 41.06.280.

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

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

41.60.080 Employee suggestion program—Contests to encourage participation. The chairman of the board may design and initiate contests between agencies and between agency suggestion evaluators to encourage participation in the suggestion program at management levels. Any tokens of recognition offered during these

contests shall be nonmonetary and shall not be considered an award, or subject to RCW 41.60.030. [1982 c 167 § 12; 1975-'76 2nd ex.s. c 122 § 5.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.100 Employee incentive pay program—Applications. With the exception of the legislative and judicial branches and the offices of elected officials, any organizational unit of any agency of state government having an identifiable budget or having its financial records maintained according to an accounting system which identifies the expenditures and receipts properly attributable to that unit may apply to the board for selection as a candidate for the award of incentive pay to its employees. The application shall be submitted prior to the beginning of any year and shall have the approval of the head of the agency within which the unit is located.

Applications shall be in the form specified by the board and contain such information as the board may require, including but not limited to those evaluation components developed by the applying unit which will provide quantitative measures of program output and performance.

The board shall evaluate the applications submitted. From those proposals which are considered to be reasonable and practical and which are found to include developed performance indicators which lend themselves to a judgment of success or failure, the board shall select the units to participate in the incentive pay program. [1982 c 167 § 2.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.110 Employee incentive pay program—Evaluation of savings. (1) To qualify for the award of incentive pay to its employees, a unit selected shall demonstrate to the satisfaction of the board that it has operated during the year at less cost than the immediately preceding year either with an increase in the level of services rendered or with no decrease in the level of services rendered.

(2) The board shall satisfy itself from documentation submitted by the organizational unit that the claimed cost of operation is real and not merely apparent and that it is not, in whole or in part, the result of:

- (a) Chance;
- (b) A lowering of the quality of the service rendered;
- (c) Nonrecurrence of expenditures which were single outlay, or one-time expenditures, in the preceding year;
- (d) Stockpiling inventories in the immediately preceding year so as to reduce requirements in the eligible year;
- (e) Substitution of federal funds, other receipts, or nonstate funds for state appropriations;
- (f) Unreasonable postponement of payments of accounts payable until the year immediately following the eligible year;
- (g) Shifting of expenses to another unit of government; or

(h) Any other practice, event, or device which the board decides has caused a distortion which makes it falsely appear that a savings or increase in level of services has occurred.

(3) The board shall consider as legitimate savings those reductions in expenditures made possible by such items as the following:

- (a) Reductions in overtime;
- (b) Elimination of consultant fees;
- (c) Less temporary help;
- (d) Improved systems and procedures;
- (e) Better deployment and utilization of personnel;
- (f) Elimination of unnecessary travel;
- (g) Elimination of unnecessary printing and mailing;
- (h) Elimination of unnecessary payments for items such as advertising;
- (i) Elimination of waste, duplication, and operations of doubtful value;
- (j) Improved space utilization; and
- (k) Any other items considered by the board as representing true savings. [1982 c 167 § 3.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.120 Employee incentive pay program—Award. At the conclusion of the eligible year, the board shall compare the expenditures for that year of each unit selected against the expenditures of that unit for the immediately preceding year and, after making such adjustments as in the board's judgment are required to eliminate distortions, shall determine the amount, if any, that the unit has reduced the unit's cost of operations or increased its level of services in the eligible year. Adjustments to eliminate distortions may include any legislative increases in employee compensation and inflationary increases in the cost of services, materials, and supplies. If the board also determines that in the board's judgment a unit qualifies for an award, the board shall award to the employees of that unit a sum equal to twenty-five percent of the amount determined to be the savings to the state for the level of services rendered. The amount awarded shall be divided and distributed in equal shares to the employees of the unit, except that employees who worked for that unit less than the twelve months of the year shall receive only a pro rata share based on the fraction of the year worked for that unit. Funds for this incentive pay shall be drawn from the appropriation of the agency in which the unit is located.

In addition to the amount awarded, the agency shall transfer two percent of the savings to the department of personnel for deposit in the department of personnel service fund. Moneys so transferred shall be used exclusively for the operations of the productivity board. Any moneys remaining unexpended at the end of the fiscal biennium shall revert to the original fund source. [1982 c 167 § 4.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.130 Employee incentive pay program—Annual status report. The secretary of state shall prepare and submit to the legislative budget committee a comprehensive annual status report on the board's activities, decisions, awards, and recommendations with respect to the employee incentive pay program. [1982 c 167 § 5.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.140 Incentive pay or awards not included in retirement calculations. Incentive pay or awards provided under this chapter shall not be included for the purpose of computing a retirement allowance under any public retirement system of this state. [1982 c 167 § 10.]

Sunset Act application: See note following chapter digest.

Severability—1982 c 167: See note following RCW 41.60.015.

41.60.900 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.60.905 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 42

PUBLIC OFFICERS AND AGENCIES

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- 42.17** Disclosure—Campaign finances—Lobbying—Records.
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- 42.04.021 Repealed.

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

Chapter 42.17

DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

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- 42.17.060 Deposit of contributions—Investment of campaign funds, qualifications—Unidentified contributions.
- 42.17.065 Filing and reporting by continuing political committee.

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- 42.17.405 Suspension of reporting provisions of chapter until January 1, 1986, for candidates, elected officials, political committees, and agencies in small jurisdictions—Voiding of suspension.
- 42.17.410 Limitation on actions.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Voting boundary commission, members subject to public disclosure act: RCW 29.70.060.

42.17.040 Obligation of political committees to file statement of organization. (1) Every political committee, within two weeks after its organization or, within two weeks 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 or elections officer 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).

(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 accordance with RCW 42.17.095, in the event of dissolution;

(i) The street address of the place and 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 elections officer within the ten days following the change. [1982 c 147 § 1; 1977 ex.s. c 336 § 1; 1975 1st ex.s. ex.s. c 294 § 3; 1973 c 1 § 4 (Initiative Measure No. 276 § 4).]

Severability—1977 ex.s. c 336: "If any provision of this 1977 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." [1977 ex.s. c 336 § 8.] This applies to the enactment of RCW 42.17.095, 42.17.125, 42.17.242, and 42.17.243 and the amendment of RCW 42.17.040, 42.17.090, and 42.17.370.

Effective date—1973 c 1: See RCW 42.17.900.

42.17.050 Campaign treasurer—Depositories. (1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission and the appropriate county elections officer the names and addresses of:

(a) One legally competent individual, who may be the candidate, to serve as a campaign treasurer; and

(b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as campaign depository and the name of the account or accounts therein maintained.

(2) A candidate, a political committee or a campaign treasurer may appoint as many deputy campaign treasurers as is considered necessary and may designate not more than one additional campaign depository in each other county in which the campaign is conducted. The candidate or political committee shall file the names and addresses of the deputy campaign treasurers and additional campaign depositories with the commission and the appropriate county elections officer.

(3) (a) A candidate or political committee may at any time remove a campaign treasurer or deputy campaign treasurer or change a designated campaign depository.

(b) In the event of the death, resignation, removal, or change of a campaign treasurer, deputy campaign treasurer, or depository, the candidate or political committee shall designate and file with the commission and the appropriate county elections officer the name and address of any successor.

(4) No campaign treasurer, deputy campaign treasurer, or campaign depository may be deemed to be in

compliance with the provisions of this chapter until his name and address is filed with the commission and the appropriate county elections officer. [1982 c 147 § 2; 1973 c 1 § 5 (Initiative Measure No. 276 § 5).]

42.17.060 Deposit of contributions—Investment of campaign funds, qualifications—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 established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

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

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a campaign depository in bonds, certificates, or savings accounts or other similar savings instruments in financial institutions other than the campaign depository: *Provided*, That the commission and the appropriate county elections officer is notified in writing of the initiation and the termination of the investment: *Provided further*, That the principal of such investment when terminated together with all interest, dividends, and income derived from the investment are deposited in the campaign depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer prior to any further disposition or expenditure thereof.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's campaign treasurer pursuant to RCW 42.17.090(1)(b), which total in excess of one percent of the total accumulated contributions received in the current calendar year or three hundred dollars (whichever is more), may not be deposited, used, or expended, but shall be returned to the donor, if his identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state, and shall be paid to the state treasurer for deposit in the state general fund. [1982 c 147 § 3; 1977 ex.s. c 313 § 3; 1975 1st ex.s. c 294 § 4; 1973 c 1 § 6 (Initiative Measure No. 276 § 6).]

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

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 as now or hereafter amended.

(2) A continuing political committee shall file with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in 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 such report shall only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars. 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 as now or hereafter amended;

(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 accurately reflecting all contributions and expenditures on a current basis within five 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 or such other place as may be authorized by the commission.

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

(7) The campaign treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred. [1982 c 147 § 4; 1975 1st ex.s. c 294 § 5.]

42.17.067 Fund-raising activities—Reporting by political committees in lieu of reporting under RCW 42.17.080—Standards—Deposits—Statements. (1) Fund-raising activities which meet the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080(3) as now or hereafter amended.

(2) A fund-raising activity which is to be reported in accordance with the provisions of this section shall conform with the following standards:

(a) The income resulting from the conduct of the activity is derived solely from either (i) the retail sale of goods or services at prices which in no case exceed a reasonable approximation of the fair market value of each item or service sold at the activity, or (ii) a gambling operation which is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW and at which in no case is the monetary value of any prize exceeded by the monetary value of any single wager which may be made by a person participating in such activity;

(b) No person responsible for receiving money at such activity may knowingly accept payment from a single person which would result in a profit to the committee of twenty-five dollars or more unless the name and address of the person making such payment together with the approximate amount of profit to the committee resulting from such payment are disclosed in the report filed pursuant to subsection (4) of this section; and

(c) Such other standards as shall be established by rule and regulation of the commission to prevent frustration of the purposes of this chapter.

(3) All funds obtained through the use of a fund-raising activity which conforms with the provisions of subsection (2) of this section shall be deposited within five business days of receipt by the campaign treasurer or deputy campaign treasurer in the same account into which contributions received by the committee are being deposited pursuant to RCW 42.17.060.

(4) At the time such funds are deposited in accordance with subsection (3) of this section, the campaign treasurer or deputy campaign treasurer making the deposit shall file with the commission a report of the fund-raising activity which shall contain the following information:

(a) The date on which the activity occurred;

(b) The location at which the activity occurred;

(c) A precise description of the fund-raising methods used in the activity;

(d) A financial statement noting gross receipts and expenses for the activity, including an inventory list where appropriate;

(e) The monetary value of wagers made and prizes distributed for winning wagers, where appropriate;

(f) The name and address of each person who contributed goods or services to the committee for sale at the activity if the fair market value of the goods or services contributed equals twenty-five dollars or more in

the aggregate from such person, together with a precise description of each item or service contributed and its estimated market value;

(g) The name and address of each person whose identity can be ascertained and who makes payments to the committee at such activity which result in a profit of twenty-five dollars or more to the committee, together with the approximate amount of profit to the committee which results from such payments; and

(h) A complete listing of the names and addresses of the persons responsible for conducting the activity.

(5) The statement required by subsection (4) of this section shall be in duplicate upon a form prescribed by the commission, one copy to be filed by the campaign treasurer with the commission, and one copy to be retained by him for his records. Each statement shall be certified as correct by the campaign treasurer or deputy treasurer making the deposit. [1982 c 147 § 5; 1975-'76 2nd ex.s. c 112 § 9.]

42.17.080 Candidates' and treasurers' duty to report contributions and expenditures. (1) On the day the campaign treasurer is designated, each candidate or political committee shall file with the commission and the county auditor or elections officer 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 or 42.17.050 as now or hereafter amended, a report of all contributions received and expenditures made prior to that date, if any.

(2) At the following intervals each campaign treasurer shall file with the commission and the county auditor or elections officer 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 maintains its office or headquarters and if there is no office or headquarters then in the county in which the campaign treasurer resides) a report containing the information required by RCW 42.17.090 as now or hereafter amended:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) Within twenty-one days after the date of the election; and

(c) On the tenth day of each month 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 and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the campaign treasurer shall file a final report.

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) For the period beginning the first day of the fourth month preceding the date on which the special or general election is held and ending on the date of that election, the campaign treasurer shall file with the commission and the appropriate county elections officer a report of each contribution received during that period at the time that contribution is deposited pursuant to RCW 42.17.060(1), as now or hereafter amended. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person: *Provided*, That contributions of less than [than] twenty-five dollars from any one person may be deposited without identifying the contributor. A copy of the report shall be retained by the campaign treasurer for his records. In the event of deposits made by a deputy campaign treasurer, the copy shall be forwarded to the campaign treasurer to be retained by him for his records. Each report shall be certified as correct by the campaign treasurer or deputy campaign treasurer making the deposit.

(4) The campaign treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five 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 or such other place as may be authorized by the commission. The campaign treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(5) All reports filed pursuant to subsections (1) or (2) of this section shall be certified as correct by the candidate and the campaign treasurer.

(6) 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 or such other place as may be authorized by the commission. [1982 c 147 § 6; 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 (1) and (2), as now or

hereafter amended, 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 five 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 campaign or in the case of a continuing political committee, the current calendar year: *Provided*, That the income which results from the conducting of a fund-raising activity which has previously been reported in accordance with RCW 42.17.067 may be reported as one lump sum, with the exception of that portion of such income which was received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067: *Provided further*, That contributions of less than twenty-five dollars in the 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 fifty 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 in accordance with RCW 42.17.095 of any surplus funds;

(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 ten 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 in the aggregate of twenty-five dollars or more to the nonreporting committee during the current calendar year, 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. A nonreporting committee incurring an obligation to file additional reports in a calendar year may satisfy the obligation by filing with the commission a letter providing updating or amending information.

(2) The campaign treasurer and the candidate shall certify the correctness of each report. [1982 c 147 § 7; 1977 ex.s. c 336 § 2; 1975-'76 2nd ex.s. c 112 § 3; 1975 1st ex.s. c 294 § 7; 1973 c 1 § 9 (Initiative Measure No. 276 § 9).]

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

Appearance of fairness doctrine—Application to candidates for public office—Campaign contributions: RCW 42.36.040, 42.36.050.

42.17.095 Disposal of surplus funds. The surplus funds of a candidate, or of a political committee supporting or opposing a candidate, may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) Transfer the surplus to the candidate's personal account as reimbursement for lost earnings incurred as a result of that candidate's election campaign. Such lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's political committee. The committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090;

(3) Transfer the surplus to one or more candidates or to a political committee or party;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund; or

(6) Hold the surplus in the campaign depository or depositories designated in accordance with RCW 42.17-.050 for possible use in a future election campaign, for political activity, for community activity, or for nonreimbursed public office related expenses and report any such disposition in accordance with RCW 42.17-.090: *Provided*, That if the candidate subsequently announces or publicly files for office, information as appropriate is reported to the commission in accordance with RCW 42.17.040 through 42.17.090. If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section. [1982 c 147 § 8; 1977 ex.s. c 336 § 3.]

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

42.17.100 Special reports—Independent campaign expenditures—Contributions to political committees.

(1) (a) For the purposes of this subsection (1) the term "independent campaign expenditure" means any expenditure which is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.065, 42.17.080, or 42.17.090.

(b) Within five days after the date of making an independent campaign expenditure which by itself or when added to all other such independent campaign expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent campaign expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made such independent campaign expenditure shall file with the commission and the county auditor of the county of residence for the candidate supported or opposed by the independent campaign expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure) an initial report of all independent campaign expenditures made during such campaign prior to and including such date.

(c) At the following intervals each person who is required to file an initial report pursuant to subsection (1)(b) of this section shall file with the commission and the county auditor of the county of residence for the candidate supported or opposed by the independent campaign expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent campaign expenditures made since the date of the last report:

(i) On the twenty-first day preceding the primary and the seventh day preceding the date on which the election is held; and

(ii) Within twenty-one days after the date of the election; and

(iii) On the tenth day of each month in which no other reports are required to be filed pursuant to this subsection (1): *Provided*, That such further reports required by this subsection (1)(c) shall only be filed if the reporting person has made an independent campaign expenditure since the date of the last previous report filed.

The report filed pursuant to paragraph (ii) of this subsection (1)(c) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(d) All reports filed pursuant to this subsection (1) shall be certified as correct by the reporting person.

(e) Each report required by subsections (1)(b) and (1)(c) of this subsection (1) shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent campaign expenditure, and ending not more than five days prior to the date the report is due:

(i) The name and address of the person filing the report;

(ii) The name and address of each person to whom an independent campaign expenditure was made in the aggregate amount of twenty-five dollars or more, and the amount, date, and purpose of each such expenditure: *Provided*, That if no reasonable estimate of the monetary value of a particular independent campaign expenditure is practicable, it shall be sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;

(iii) The total sum of all independent campaign expenditures made during the campaign to date; and

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

(2) (a) Any person who contributes in the aggregate amount of one hundred dollars or more during the preceding twelve-month period to any political committee not domiciled in the state of Washington or not otherwise required to report under this chapter, if the person reasonably expects such political committee to make contributions in respect to any election covered by this chapter, shall file with the commission a report signed by the contributor disclosing the contributor's name and address, the date, nature, purpose, amount, and recipient of such contribution, and any instructions given as to the use or disbursement of such contribution.

(b) The initial report shall be filed with the commission within five days after the date on which the aggregate contribution amount of one hundred dollars or more is reached, and each subsequent report shall be filed within five days after each subsequent contribution is made to the same such political committee. [1982 c 147 § 9; 1975-'76 2nd ex.s. c 112 § 4; 1973 c 1 § 10 (Initiative Measure No. 276 § 10).]

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

42.17.150 Registration of lobbyists. (1) Before doing any lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, showing:

(a) His name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of his employment;

(d) His compensation for lobbying; how much he is to be paid for expenses, and what expenses are to be reimbursed; and a full and particular description of any agreement, arrangement, or understanding according to which his compensation, or any portion thereof, is or will be contingent upon the success of any attempt to influence legislation;

(e) Whether the person from whom he receives said compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects of his legislative interest;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for his services as a lobbyist shall file a separate notice of representation with respect to each such person; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall,

within one week of such change, modification or termination, furnish full information regarding the same by filing with the commission an amended registration statement.

(4) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year, and failure to do so shall terminate his registration. [1982 c 147 § 10; 1973 c 1 § 15 (Initiative Measure No. 276 § 15).]

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 photograph of himself of a size and format as determined by rule of the commission, 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. [1982 c 147 § 11; 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, and 42.17.200:

(1) Persons who limit their lobbying activities to appearing 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. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. 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 twenty-five [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) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(4) as now or hereafter amended. [1982 c 147 § 12; 1977 ex.s. c 313 § 4; 1975 1st ex.s. c 294 § 9; 1973 c 1 § 16 (Initiative Measure No. 276 § 16).]

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

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 the lobbyist. The reports shall be made in the form and manner prescribed by the commission. They shall be due monthly and shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) Each such monthly 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 compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five 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.

Notwithstanding the foregoing, lobbyists are not required to report the following:

(i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(ii) Any expenses incurred for his or her own living accommodations;

(iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;

(iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(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 candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule-making under chapter 34.04 RCW and chapter 28B.19 RCW (the state administrative procedure acts) and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period. [1982 c 147 § 13; 1977 ex.s. c 313 § 5; 1975 1st ex.s. c 294 § 10; 1973 c 1 § 17 (Initiative Measure No. 276 § 17).]

Effective date—Severability—1977 ex.s. c 313: See notes following RCW 42.17.020.

42.17.230 Duties of lobbyists. A person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:

(1) Such persons shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the financial reports required to be made under this chapter for a period of at least five years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers, and documents shall be made available for inspection by the commission at any time: *Provided*, That if a lobbyist is required under the terms of his employment contract to turn any records over to his employer, responsibility for the preservation of such records under this subsection shall rest with such employer.

(2) In addition, a person required to register as a lobbyist shall not:

(a) Engage in any activity as a lobbyist before registering as such;

(b) Knowingly deceive or attempt to deceive any legislator as to any fact pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(d) Knowingly represent an interest adverse to any of his employers without first obtaining such employer's written consent thereto after full disclosure to such employer of such adverse interest;

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation. [1982 c 147 § 14; 1973 c 1 § 23 (Initiative Measure No. 276 § 23).]

42.17.240 Elected and appointed officials reports of financial affairs.

(1) Every elected official (except president, vice president, and precinct committeemen), every chief executive state officer as specified in RCW 43.17-.020, as now or hereafter amended, the chief administrative law judge, the director of financial management, the director of personnel, the director of the planning and community affairs agency, the director of the state system of community colleges, the executive director of the data processing authority, the executive secretary of the forest practice appeals board, the director of the higher education personnel board, the secretary of transportation, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the administrator of the interagency committee for outdoor recreation, the director of parks and recreation, the executive secretary of the board of prison terms and paroles, the administrator of the public disclosure commission, the director of retirement systems, the secretary of the utilities and transportation commission, the executive secretary of the board of tax appeals, the secretary of the state finance committee, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college, each professional staff member of the office of the governor, each professional staff member of the legislature, and each member of the state board for community college education, data processing authority, forest practices board, forest practices appeals board, gambling commission, game commission, higher education personnel board, transportation commission, horse racing commission, human rights commission, board of industrial insurance appeals, liquor control board, interagency committee for outdoor recreation, parks and recreation commission, personnel board, personnel appeals board, board of prison terms and paroles, public disclosure commission, public employees' retirement system board, public pension commission, University of Washington board of regents, Washington State University board of regents, board of tax appeals, teachers' retirement system board of trustees, Central Washington University board of trustees, Eastern Washington University board of trustees, The Evergreen State College board of trustees, Western Washington University board of trustees, board of trustees of each community college, and the utilities and transportation commission, shall after January 1st and before April 15th of each year for the preceding calendar 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, and every person appointed to the appointive positions enumerated herein shall, within two weeks of being so appointed, for the preceding twelve months; file with the commission a written statement sworn as to its truth and accuracy stating for himself and all members of his immediate family: *Provided*, That no individual shall be required to file more than once in any calendar year: *Provided however*, That a statement of a candidate or appointee filed during the period January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of such statement would relieve the individual of a prior obligation to file a statement covering the entire preceding 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 the person reporting by the governmental entity for which such person serves as an elected or appointed public officer or professional staff member 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 official holds any office or position, 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: *Provided, further*, That with respect to any bank or commercial lending institution in which is held any such office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of such bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by such bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, 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; and

(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

(l) 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. [1982 c 10 § 9. Prior: 1981 c 311 § 20; 1981 c 67 § 15; 1979 ex.s. c 265 § 3; 1979 c 151 § 73; prior: 1975-'76 2nd ex.s. c 112 § 7; 1975-'76 2nd ex.s. c 104 § 1 (Ref. Bill No. 36); 1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276 § 24).]

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 311: See RCW 41.64.910.

Effective dates—**Severability**—1981 c 67: See notes following RCW 34.12.010.

Cemetery district commissioners exempt from chapter: RCW 68.16-.060, 68.16.140.

42.17.295 Destruction of information relating to employee misconduct. Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with RCW 41.06.450, to the extent necessary to ensure fairness to the employee. [1982 c 208 § 13.]

Severability—1982 c 208: See RCW 42.40.900.

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, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: *Provided*, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: *Provided, further*, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

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

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

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

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

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

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(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. [1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276 § 31).]

Exemptions from public inspection

accounting records of special inquiry judge: RCW 10.29.090.

certain criminal records: Chapter 10.97 RCW.

certificate submitted by physically or mentally disabled person seeking a driver's license: RCW 46.20.041.

examination reports of the supervisor of banking and supervisor of savings and loan associations: RCW 30.04.075, 31.12.325, 32.04.220, 33.04.110.

judicial qualifications commission, records of: RCW 2.64.110.

liability reserves of local government joint self-insurance pool: RCW 48.62.110.

medical disciplinary board, reports required to be filed with: RCW 18.72.265.

organized crime

advisory board files: RCW 10.29.030.

investigative information: RCW 43.43.856.

salary and fringe benefit survey information: RCW 28B.16.110, 41.06.160.

sales reports of commercial fertilizers: RCW 15.54.360.

42.17.350 Public disclosure commission—Established—Membership—Compensation, travel expenses. 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 January 1, 1973. 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: *Provided*, That a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 on matters directly affecting this chapter. 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 seventy-five dollars 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 incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.43.060 as now or hereafter amended. 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. [1982 c 147 § 15; 1975-'76 2nd ex.s. c 112 § 8; 1975-'76 2nd ex.s. c 34 § 93; 1975 1st ex.s. c 294 § 23; 1973 c 1 § 35 (Initiative Measure No. 276 § 35).]

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

42.17.380 Secretary of state, attorney general—Duties. (1) The office of the secretary of state shall be designated as a 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. [1982 c 35 § 196; 1975 1st ex.s. c 294 § 26; 1973 c 1 § 38 (Initiative Measure No. 276 § 38).]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

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

42.17.395 Violations—Determination by commission—Issuance and enforcement of order—Hearing—Referral—Judicial review—Petition for order of enforcement. (1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such determination.

(2) The commission, in cases where it chooses to determine whether an actual violation of this chapter has occurred, shall hold a contested case hearing pursuant to the administrative procedure act (chapter 34.04 RCW) to make such determination. Any order which the commission issues under this section shall be pursuant to such hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter

to the attorney general or other enforcement agency as provided in RCW 42.17.360.

(4) The person against whom an order is directed under this section shall be designated as the respondent. Such order may require the respondent to cease and desist from the activity which constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17.390(1) (b), (c), (d), or (e): *Provided*, That no individual penalty assessed by the commission may exceed two hundred fifty dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed five hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the administrative procedure act (chapter 34.04 RCW). If the commission's order is not satisfied and no petition for review is filed within thirty days as provided in RCW 34.04.130, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397, as now or hereafter amended. [1982 c 147 § 16; 1975-'76 2nd ex.s. c 112 § 12.]

42.17.397 Procedure upon petition for enforcement of order of commission—Court's order of enforcement. The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied; and
 (b) That the order is regular on its face; and
 (c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.04.130 and failed to avail himself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. 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) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment. [1982 c 147 § 17; 1975-'76 2nd ex.s. c 112 § 13.]

42.17.405 Suspension of reporting provisions of chapter until January 1, 1986, for candidates, elected officials, political committees, and agencies in small jurisdictions—Voiding of suspension. (1) During the period between March 26, 1982, and January 1, 1986, the reporting provisions of this chapter are suspended as they pertain to candidates, elected officials, and agencies in jurisdictions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction. The suspension also applies to political committees formed to support or oppose ballot propositions in such jurisdictions, and to persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The suspension shall not apply in any jurisdiction from which a "petition for disclosure" containing the valid signatures of five percent of the number of registered voters, as of the date of the most recent general election in the jurisdiction, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the jurisdiction is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every incumbent elected official and candidate in the jurisdiction to file the required statement and reports within thirty days of the date of the order.

(3) The suspension shall not apply in any jurisdiction which by ordinance, resolution, or other official action has petitioned the commission to void the suspension with respect to elected officials and candidates of the jurisdiction. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall issue an order voiding the suspension for that jurisdiction. The commission, upon approval of the action, shall order every incumbent elected official and candidate in the jurisdiction to file the required statement and reports within thirty days of the date of the order.

(4) Any person exempted from reporting by the suspension under this section may at his or her option file the statement and reports. [1982 c 60 § 1.]

42.17.410 Limitation on actions. Any action brought under the provisions of this chapter must be commenced within five years after the date when the violation occurred. [1982 c 147 § 18; 1973 c 1 § 41 (Initiative Measure No. 276 § 41).]

Chapter 42.30

OPEN PUBLIC MEETINGS ACT

Sections
42.30.020 Definitions.

42.30.020 Definitions. As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to a collective decision made by a majority of the members of a governing body, a collective commitment or promise by a majority of the members of a governing body to make a positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken. [1982 1st ex.s. c 43 § 10; 1971 ex.s. c 250 § 2.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

Chapter 42.36

APPEARANCE OF FAIRNESS DOCTRINE—LIMITATIONS

Sections	
42.36.010	Application of doctrine to local land use decisions.
42.36.020	Application of doctrine to members of local decision-making bodies.
42.36.030	Application of doctrine to legislative action of local executive or legislative officials.
42.36.040	Application of doctrine to public discussion by candidate for public office.
42.36.050	Application of doctrine to campaign contributions.
42.36.060	Quasi-judicial proceedings—Ex parte communications prohibited.
42.36.070	Quasi-judicial proceedings—Application of doctrine to prior advisory proceedings.
42.36.080	Disqualification based on doctrine—Time limitation for raising challenge.
42.36.090	Application of doctrine to participation of challenged member of decision-making body.
42.36.100	Judicial restriction of doctrine not prohibited—Construction of chapter.
42.36.110	Right to fair hearing not impaired.
42.36.900	Severability—1982 c 229.

42.36.010 Application of doctrine to local land use decisions. Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance. [1982 c 229 § 1.]

42.36.020 Application of doctrine to members of local decision-making bodies. No member of a local decision-making body may be disqualified by the appearance of fairness doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the local legislative body. [1982 c 229 § 2.]

42.36.030 Application of doctrine to legislative action of local executive or legislative officials. No legislative action taken by a local legislative body, its members, or local executive officials shall be invalidated by an application of the appearance of fairness doctrine. [1982 c 229 § 3.]

42.36.040 Application of doctrine to public discussion by candidate for public office. Prior to declaring as a candidate for public office or while campaigning for public office as defined by RCW 42.17.020 (5) and (25) no public discussion or expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine. [1982 c 229 § 4.]

42.36.050 Application of doctrine to campaign contributions. A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions. [1982 c 229 § 5.]

Public disclosure of campaign finances: Chapter 42.17 RCW.

42.36.060 Quasi-judicial proceedings—Ex parte communications prohibited. During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding. This prohibition does not preclude a member of a decision-making

body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding. [1982 c 229 § 6.]

42.36.070 Quasi-judicial proceedings—Application of doctrine to prior advisory proceedings. Participation by a member of a decision-making body in earlier proceedings that result in an advisory recommendation to a decision-making body shall not disqualify that person from participating in any subsequent quasi-judicial proceeding. [1982 c 229 § 7.]

42.36.080 Disqualification based on doctrine—Time limitation for raising challenge. Anyone seeking to rely on the appearance of fairness doctrine to disqualify a member of a decision-making body from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the individual. Where the basis is known or should reasonably have been known prior to the issuance of a decision and is not raised, it may not be relied on to invalidate the decision. [1982 c 229 § 8.]

42.36.090 Application of doctrine to participation of challenged member of decision-making body. In the event of a challenge to a member or members of a decision-making body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not occurred, if the member or members publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine. [1982 c 229 § 9.]

42.36.100 Judicial restriction of doctrine not prohibited—Construction of chapter. Nothing in this chapter prohibits the restriction or elimination of the appearance of fairness doctrine by the appellate courts. Nothing in this chapter may be construed to expand the appearance of fairness doctrine. [1982 c 229 § 10.]

42.36.110 Right to fair hearing not impaired. Nothing in this chapter prohibits challenges to local land use decisions where actual violations of an individual's right to a fair hearing can be demonstrated. [1982 c 229 § 11.]

42.36.900 Severability—1982 c 229. 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. [1982 c 229 § 12.]

Chapter 42.40

DISCLOSURE OF IMPROPER GOVERNMENTAL ACTION—PROTECTION OF EMPLOYEE DISCLOSURES

Sections

42.40.010	Policy.
42.40.020	Definitions.
42.40.030	Right to disclose improper governmental actions—Interference prohibited.
42.40.040	Report of improper governmental action—Investigations and reports by auditor.
42.40.050	Retaliatory action against employee providing information—Judicial review—Duties of auditor.
42.40.060	Duty of employee to inform agency head.
42.40.070	Summary of chapter to be provided employees.
42.40.900	Severability—1982 c 208.

42.40.010 Policy. It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures. [1982 c 208 § 1.]

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

(1) "Auditor" means the office of the state auditor.

(2) "Employee" means any individual employed or holding office in any department or agency of state government.

(3) "Improper governmental action" means any action by an employee:

(a) Which is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's employment; and

(b) Which is in violation of any state law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds. [1982 c 208 § 2.]

42.40.030 Right to disclose improper governmental actions—Interference prohibited. (1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to disclose to the auditor (or representative thereof) information concerning improper governmental action.

(2) For the purpose of subsection (1) of this section, "use of official authority or influence" includes taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation, or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(3) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law. [1982 c 208 § 3.]

42.40.040 Report of improper governmental action—Investigations and reports by auditor. (1) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, for a period not to exceed thirty days, conduct such preliminary investigation of the matter as the auditor deems appropriate. In conducting the investigation, the identity of the person providing the information which initiated the investigation shall be kept confidential.

(2) In addition to the authority under subsection (1) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(3) (a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the person, if known, who provided the information initiating the investigation.

(b) The notification shall be by memorandum containing a summary of the information received, a summary of the results of the preliminary investigation with regard to each allegation of improper governmental action, and any determination made by the auditor under (c) of this subsection.

(c) In any case to which this section applies, the identity of the person who provided the information initiating the investigation shall be kept confidential unless the auditor determines that the information has been provided other than in good faith.

(4) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the party, if known, who provided the information initiating the investigation and either conduct further investigations or issue a report under subsection (6) of this section.

(5) (a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(6) (a) If the auditor determines that there is reasonable cause to believe that an employee has engaged in

any improper activity, the auditor shall report the nature and details of the activity to:

(i) The employee and the head of the employing agency; and

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate.

(b) The auditor has no enforcement power except that in any case in which the auditor submits a report of alleged improper activity to the head of an agency, the attorney general, or any other individual to which a report has been made under this section, the individual shall report to the auditor with respect to any action taken by the individual regarding the activity, the first report being transmitted no later than thirty days after the date of the auditor's report and monthly thereafter until final action is taken. If the auditor determines that appropriate action is not being taken within a reasonable time, the auditor shall report the determination to the governor and to the legislature.

(7) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter. [1982 c 208 § 4.]

42.40.050 Retaliatory action against employee providing information—Judicial review—Duties of auditor.

(1) Any employee (a) who provides his or her name and specific information to the auditor on any matter which is found to warrant further investigation or other action, or which is provided by the employee in good faith, as determined by the auditor, whether or not further action is warranted and (b) who is subjected to any reprisal or retaliatory action undertaken during the period beginning on the day after the date on which the information is provided to the auditor and ending on the date which is two years after the auditor's report on the matter, may seek judicial review of the reprisal or retaliatory action in superior court, whether or not there has been an administrative review of the action. In such an action, the reviewing court may award reasonable attorney's fees.

(2) The auditor shall, by rule, establish a program which provides that, during the two-year period after a report to the auditor under this chapter, the auditor will contact the employee who provided specific information involved on at least a quarterly basis for purposes of determining if any changes in the employee's work situation exist which are related to the employee's having provided information. If the auditor has reason to believe that such a change in work situation has occurred, the auditor shall investigate and report on the matter in accordance with this chapter.

(3) For the purpose of this section "reprisal or retaliatory action" means but is not limited to:

(a) Denial of adequate staff to perform duties;

(b) Frequent staff changes;

(c) Frequent and undesirable office changes;

(d) Refusal to assign meaningful work;

(e) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;

(f) Demotion;

(g) Reduction in pay;

- (h) Denial of promotion;
- (i) Suspension; and
- (j) Dismissal. [1982 c 208 § 5.]

42.40.060 Duty of employee to inform agency head. An employee who wishes to disclose information under this chapter shall make a good faith effort to provide to the agency head the information to be disclosed before its disclosure. [1982 c 208 § 6.]

42.40.070 Summary of chapter to be provided employees. A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available to each employee upon entering public employment. Employees shall be notified each year of the procedures and protections under this chapter. [1982 c 208 § 7.]

42.40.900 Severability—1982 c 208. 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. [1982 c 208 § 14.]

Title 43

STATE GOVERNMENT—EXECUTIVE

Chapters

- 43.01 State officers—General provisions.
- 43.03 Salaries and expenses.
- 43.06 Governor.
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Employment agency advisory committee—Abolished—Powers, duties and functions transferred: RCW 43.24.800–43.24.830.

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Washington reciprocity commission—Abolished—Powers, duties and functions transferred: RCW 43.24.800–43.24.830.

Chapter 43.01

STATE OFFICERS—GENERAL PROVISIONS

Sections

- 43.01.040 Vacations—Computation and accrual—Transfer—Payment for accrued leave.
- 43.01.041 Accrued vacation leave—Payment upon termination of employment by death.
- 43.01.050 Daily remittance of moneys to treasury—Undistributed receipts account created, use.
- 43.01.200 Facilitating recovery from Mt. St. Helens eruption—Legislative findings—Purpose.
- 43.01.210 Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action.

43.01.040 Vacations—Computation and accrual—Transfer—Payment for accrued leave. Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than one working day of vacation leave with full pay for each month of employment if said employment is continuous for six months.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than one additional working day of vacation with full pay each year for satisfactorily completing the first two, three and five continuous years of employment respectively.

Such part time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such

employment bears to the total number of hours of full time employment.

Each subordinate officer and employee of the several offices, departments and institutions of the state government shall be entitled under his contract of employment with the state government to accrue unused vacation leave not to exceed thirty working days. Officers and employees transferring within the several offices, departments and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department or institution. All vacation leave shall be taken at the time convenient to the employing office, department or institution: *Provided*, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department or institution, and a statement of the necessity therefor is filed by such employing office, department or institution with the appropriate personnel board or other state agency or officer, then the aforesaid maximum thirty working days of accrued unused vacation leave shall be extended for each month said leave is so deferred. No agency or department of the state may make any payment to an employee for unused or accrued vacation leave upon termination of employment except in the case of death: *Provided*, That agencies or departments of the state shall provide a method whereby all accumulated vacation leave may be taken as vacation leave. [1982 1st ex.s. c 51 § 2; 1965 ex.s. c 13 § 1; 1965 c 8 § 43.01.040. Prior: 1955 c 140 § 1; 1921 c 7 § 133; RRS § 10891.]

Savings—Effective date—Severability—1982 1st ex.s. c 51: See notes following RCW 41.04.345.

Military leaves of absence: RCW 38.40.060.

43.01.041 Accrued vacation leave—Payment upon termination of employment by death. Officers and employees referred to in RCW 43.01.040 whose employment is terminated by their death and who have accrued vacation leave as specified in RCW 43.01.040, shall have such accrued vacation leave paid to their estate. [1982 1st ex.s. c 51 § 3; 1965 c 8 § 43.01.041. Prior: 1955 c 140 § 2.]

Savings—Effective date—Severability—1982 1st ex.s. c 51: See notes following RCW 41.04.345.

Payment for accrued vacation leave prohibited—Exceptions: RCW 41.04.345.

43.01.050 Daily remittance of moneys to treasury—Undistributed receipts account created, use. Each state officer or other person, other than county treasurer, who is authorized by law to collect or receive moneys which are required by statute to be deposited in the state treasury shall transmit to the state treasurer each day, all such moneys collected by him on the preceding day: *Provided*, That the state treasurer may in his discretion grant exceptions where such daily transfers would not be administratively practical or feasible. In the event that remittances are not accompanied by a statement designating source and fund, the state treasurer shall deposit these moneys in the state general

fund in an account hereby created to be known as the undistributed receipts account. These moneys shall be retained in the account until such time as the transmitting agency provides a statement in duplicate of the source from which each item of money was derived and the fund into which it is to be transmitted. The director of financial management in accordance with RCW 43.88.160 shall promulgate regulations designed to assure orderly and efficient administration of this account. In the event moneys are deposited in this account that constitute overpayments, refunds may be made by the remitting agency without virtue of a legislative appropriation. [1981 2nd ex.s. c 4 § 5; 1979 c 151 § 80; 1967 c 212 § 1; 1965 c 8 § 43.01.050. Prior: 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

Commissioner of public lands and department of natural resources, deposit of funds: RCW 43.85.130.

State depositaries: Chapter 43.85 RCW.

43.01.200 Facilitating recovery from Mt. St. Helens eruption—Legislative findings—Purpose. (1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia Rivers areas;

(c) There is an immediate need for sites for dredge spoils and funds to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for world-wide commerce.

(2) The intent of *this act is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section. [1982 c 7 § 1.]

***Reviser's note:** "this act", 1982 c 7, is codified as RCW 36.01.150, 43.01.200, 43.01.210, 43.21A.500, 43.21C.500, 44.04.500, 75.20.300, 89.16.500, and 90.58.500.

Severability—1982 c 7: See note following RCW 36.01.150.

43.01.210 Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action. State agencies shall take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) The department of transportation may, by means other than eminent domain, secure any lands or interest in lands by purchase or donation for dredge spoils sites;

(2) The commissioner of public lands may by rule declare any public lands found to be damaged by the eruption of Mt. St. Helens, directly or indirectly, as surplus to the needs of the state and may dispose of such

lands pursuant to Title 79 RCW to public or private entities for development, park and recreation uses, or for open space;

(3) All state agencies shall cooperate with local governments, the United States Army Corps of Engineers, and other agencies of the federal government in planning for dredge site selection and dredge spoils removal, and in all other phases of recovery operations;

(4) The department of transportation shall work with the counties concerned on site selection and site disposition in cooperation with the Army Corps of Engineers; and

(5) State agencies may assist the Army Corps of Engineers in the dredging and dredge spoils deposit operations. [1982 c 7 § 2.]

Severability—1982 c 7: See note following RCW 36.01.150.

Facilitating recovery from Mt. St. Helens eruption—Scope of local government action: RCW 36.01.150.

Select committee for oversight of Mt. St. Helens recovery operations: RCW 44.04.500.

Chapter 43.03

SALARIES AND EXPENSES

Sections

43.03.028 State committee on salaries—Members—Duties—Reports.

43.03.028 State committee on salaries—Members—Duties—Reports. (1) There is hereby created a state committee on salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the president of Washington State University; the chairperson of the State Personnel Board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the capitol historical association and museum; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the commission for vocational education; the advisory council on vocational education; the public disclosure commission; the hospital commission;

the state conservation commission; the commission on Mexican–American affairs; the commission on Asian–American affairs; the state board for volunteer firemen; the urban arterial board; the data processing authority; the public employees relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

(3) The committee shall also make a study of the duties and salaries of all state elective officials, including members of the supreme, appellate, superior, and district courts and members of the legislature and report to the governor and the president of the senate and the speaker of the house not later than sixty days prior to the convening of each regular session of the legislature during an odd-numbered year its recommendation for the salaries to be established for each position. Copies of the committee report to the governor shall be provided to the appropriate standing committees of the house and senate upon request.

(4) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060. [1982 c 163 § 21; 1980 c 87 § 20. Prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

Chapter 43.06

GOVERNOR

Sections

43.06.010 General powers and duties.

Appointing power

center for voluntary action: RCW 43.150.040.

council on child abuse and neglect: RCW 43.121.020.

Board of review, business registration and licensing system, member: RCW 19.02.040.

Council on child abuse and neglect, jurisdiction in governor: RCW 43.121.020.

Governor to submit recommendations on licensure requirements to legislature: RCW 19.02.130.

Reports to governor

agencies to review licensure requirements and report to governor: RCW 19.02.120.

business license center: RCW 19.02.030.

council on child abuse and neglect: RCW 43.121.090.

Voluntary action center, establishment by governor: RCW 43.150.040.

43.06.010 General powers and duties. In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of his duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor shall, when appropriate, submit to the select joint committee created by RCW 43.131.120, lists of state agencies, as defined by RCW 43.131.030, which agencies might appropriately be scheduled for termination by a bill proposed by the select joint committee;

(14) The governor may, after finding that there exists within this state an imminent danger of infestation of

plant pests as defined in RCW 17.24.005 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides. [1982 c 153 § 1; 1979 ex.s. c 53 § 4; 1977 ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Severability—Effective date—1982 c 153: See notes following RCW 17.24.200.

Severability—1979 ex.s. c 53: See RCW 10.85.900.

Severability—1977 ex.s. c 289: See note following RCW 43.131.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Rewards by county legislative authorities: Chapter 10.85 RCW.

Chapter 43.07

SECRETARY OF STATE

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Voting boundary commission, duties relating to: Chapter 29.70 RCW.

43.07.030 General duties. The secretary of state shall:

(1) Keep a register of and attest the official acts of the governor;

(2) Affix the state seal, with his attestation, to commissions, pardons, and other public instruments to which the signature of the governor is required, and also attestations and authentications of certificates and other documents properly issued by the secretary;

(3) Record all articles of incorporation, deeds, or other papers filed in the secretary of state's office;

(4) Receive and file all the official bonds of officers required to be filed with the secretary of state;

(5) Take and file in the secretary of state's office receipts for all books distributed by him;

(6) Certify to the legislature the election returns for all officers required by the Constitution to be so certified, and certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;

(7) Furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

(8) Present to the speaker of the house of representatives, at the beginning of each regular session of the legislature during an odd-numbered year, a full account of all purchases made and expenses incurred by the secretary of state on account of the state;

(9) File in his office an impression of each and every seal in use by any state officer;

[(10)] Keep a record of all fees charged or received by the secretary of state. [1982 c 35 § 186; 1980 c 87 § 21; 1969 ex.s. c 53 § 3; 1965 c 8 § 43.07.030. Prior: 1890 p 630 § 2; RRS § 10992.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities. The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state or under chapter 42.28 RCW. [1982 c 35 § 190.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.120 Fees. (1) The secretary of state shall collect the fees herein prescribed for the secretary of state's official services:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office for which no other fee is provided, fifty cents per page for the first ten pages and twenty-five cents per page for each additional page;

(b) For any certificate under seal, five dollars;

(c) For filing and recording trademark, fifty dollars;

(d) For each deed or patent of land issued by the governor, if for one hundred and sixty acres of land, or less, one dollar, and for each additional one hundred and sixty acres, or fraction thereof, one dollar;

(e) For recording miscellaneous records, papers, or other documents, five dollars for filing each case.

(2) The secretary of state may adopt rules under chapter 34.04 RCW establishing reasonable fees for the following services rendered under Title 23A RCW, chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.32, 24.36, or 25.10 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic transmittal of documents;

(d) The providing of information by microfiche or other reduced-format compilation;

(e) The handling of checks or drafts for which sufficient funds are not on deposit;

(f) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;

(g) The handling of telephone requests for information; and

(h) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court shall be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law. [1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120. Prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

43.07.130 Secretary of state's revolving fund—Publication fees authorized, disposition. There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which shall be used by the office of the secretary of state to defray the costs of printing, reprinting, or distributing printed matter authorized by law to be issued by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 23A RCW, or chapters 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.32, 24.36, or 25.10 RCW.

The secretary of state is hereby authorized to charge a fee for such publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 23A.36-.050, 23A.40.030, 24.03.410, 24.06.455, or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund shall be placed in the secretary of state's revolving fund. [1982 c 35 § 188; 1973 1st ex.s. c 85 § 1; 1971 ex.s. c 122 § 1.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.140 Materials specifically authorized to be printed and distributed. The secretary of state is hereby specifically authorized to print, reprint, and distribute the following materials:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23A RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29 RCW;
- (7) The provisions of Title 62A RCW;
- (8) The provisions of chapter 18.100 RCW;
- (9) The provisions of chapter 19.77 RCW;
- (10) The provisions of chapter 43.07 RCW;
- (11) The provisions of the Washington state Constitution;

(12) The provisions of chapter 42.17 RCW and rules adopted by the public disclosure commission;

(13) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and

(14) Rules and informational publications related to the statutory provisions set forth above. [1982 c 35 § 189; 1973 1st ex.s. c 85 § 2.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.160 Authenticating officers—Appointment authorized—Use of facsimile signature. The secretary of state may appoint authenticating officers and delegate to the authenticating officers power to sign for the secretary of state any document which, to have legal effect, requires the secretary of state's signature and which is of a class which the secretary of state has authorized for signature by the authenticating officers in a writing on file in the secretary of state's office. Authenticating officers shall sign in the following manner: " -----, Authenticating Officer for the Secretary of State ----- "

The secretary of state may also delegate to the authenticating officers power to use the secretary of state's facsimile signature for signing any document which, to have legal effect, requires the secretary of state's signature and is of a class with respect to which the secretary of state has authorized use of his or her facsimile signature by a writing filed in the secretary of state's office. As used in this section, "facsimile signature" includes, but is not limited to, the reproduction of any authorized signature by a copper plate, a rubber stamp, or by a photographic, photostatic, or mechanical device.

The secretary of state shall effect the appointment and delegation by placing on file in the secretary of state's office in a single document the names of all persons appointed as authenticating officers and each officer's signature, a list of the classes of documents each authenticating officer is authorized to sign for the secretary of state, a copy of the secretary of state's facsimile signature, and a list of the classes of documents which each authenticating officer may sign for the secretary of state by affixing the secretary of state's facsimile signature. The secretary of state may revoke the appointment

or delegation or powers by placing on file in the secretary of state's office a new single document which expressly revokes the authenticating officers and the powers delegated to them. The secretary of state shall record and index documents filed by him or her under this section, and the documents shall be open for public inspection.

The authorized signature of an authenticating officer or an authorized facsimile signature of the secretary of state shall have the same legal effect and validity as the genuine manual signature of the secretary of state. [1982 c 35 § 2.]

Intent—1982 c 35: "The legislature finds that the secretary of state's office, particularly the corporations division, performs a valuable public service for the business and nonprofit corporate community, and for the state of Washington. The legislature further finds that numerous filing and other requirements of the laws relating to the secretary of state's responsibilities have not been recently updated, thereby causing problems and delays for the corporate community as well as the secretary of state's office.

To provide better service to the corporate community in this state, and to permit the secretary of state to make efficient use of state resources and improve collection of state revenues, statutory changes are necessary. It is the intent of the legislature to provide for the modernization and updating of the corporate laws and other miscellaneous filing statutes and to give the secretary of state the appropriate authority the secretary of state needs to implement the modernization and streamlining effort." [1982 c 35 § 1.]

Severability—1982 c 35: "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." [1982 c 35 § 202.]

Effective dates—Application—1982 c 35: "(1) Except as provided under subsection (3) of this section, this act shall take effect July 1, 1982.

(2) Sections 6, 14, 47, 72, 75(2), 76(4), 80, 81, 97, 101, 120, 121(4), 124, 169, and 171(4) shall be construed and apply only to actions taken or documents filed after that date.

(3) Sections 39, 45, 46, 52, 61, 63, and 201 of this act shall take effect January 1, 1983." [1982 c 35 § 203.] Subsection (2) of this section refers to RCW 24.06.048 and the amendments to RCW 23A.08.090, 23A.12.020, 23A.32.080, 24.03.005, 24.03.025(2), 24.03.045(4), 24.03.050, 24.03.055, 24.03.302, 24.03.340, 24.06.025, 24.06.045(4), 18.100.120, and 23.86.050(4) by 1982 c 35. Subsection (3) of this section refers to the amendments to RCW 23A.28.125, 23A.32.073, 23A.32.075, 23A.32.160, 23A.40.040, 23A.40.060, and the repeal of RCW 23A.32.078, and 23A.40.150 by 1982 c 35.

43.07.170 Establishment of a corporate filing system using other methods authorized. If the secretary of state determines that the public interest and the purpose of the corporation filing statutes administered by the secretary of state would be best served by a filing system utilizing microfilm, microfiche, or methods of reduced-format document recording, the secretary of state may, by rule adopted under chapter 34.04 RCW, establish such a filing system. In connection therewith, the secretary of state may eliminate any requirement for a duplicate original filing copy, and may establish reasonable requirements concerning paper size, print legibility, and quality for photo-reproduction processes as may be necessary to ensure utility and readability of any reduced-format filing system. [1982 c 35 § 191.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.180 Staggered corporate license renewal system authorized. The secretary of state may, by rule adopted under chapter 34.04 RCW, adopt and implement a system of renewals for annual corporate licenses or filings in which the renewal dates are staggered throughout the year.

To facilitate the implementation of the staggered system, the secretary of state may extend the duration of corporate licensing periods or report filing periods and may impose and collect such additional proportional fees as may be required on account of the extended periods. [1982 c 35 § 192.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.190 Use of a summary face sheet or cover sheet with the filing of certain documents authorized. Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23A RCW, or chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.32, 24.36, or 25.10 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter 34.04 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable. [1982 c 35 § 193.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.200 Business license center as secretary's agent for corporate renewals—Proposals for—Schedule. Not later than July 1, 1982, the secretary of state and the director of licensing shall propose to the director of financial management a contract and working agreement with accompanying fiscal notes designating the business license center as the secretary of state's agent for issuing all or a portion of the corporation renewals within the jurisdiction of the secretary of state. The secretary of state and the director of licensing shall submit the proposed contract and accompanying fiscal notes to the legislature before October 1, 1982.

The secretary of state and the director of licensing shall jointly submit to the legislature by January 10, 1983, a schedule for designating the center as the secretary of state's agent for all such corporate renewals not governed by the contract. [1982 c 182 § 12.]

Severability—1982 c 182: See RCW 19.02.901.

Business license center act: Chapter 19.02 RCW.

Certain business or professional activity licenses exempt: RCW 19.02.800.

Master license system—Existing licenses or permits registered under, when: RCW 19.02.810.

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Chapter 43.09 STATE AUDITOR

MUNICIPAL CORPORATIONS

Sections

- 43.09.270 Division of municipal corporations—Expense of division, how paid.
- 43.09.281 Appeal procedure to be adopted—Inclusion of number and disposition of appeals in annual report.
- 43.09.282 Division of municipal corporations—Municipal revolving fund—Records of auditing costs. (Effective July 1, 1983.)

MUNICIPAL CORPORATIONS

43.09.270 Division of municipal corporations—Expense of division, how paid. The expense of maintaining and operating the division shall be paid out of the state general fund: *Provided*, That those expenses directly related to the prescribing of accounting systems, training, maintenance of working capital including reserves for late and uncollectable accounts and necessary adjustments to billings, and field audit supervision, shall be considered as expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service. [1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

43.09.281 Appeal procedure to be adopted—Inclusion of number and disposition of appeals in annual report. The state auditor shall adopt appropriate rules pursuant to chapter 34.04 RCW, the administrative procedure act, to provide a procedure whereby a taxing district may appeal charges levied under RCW 43.09.280. Such procedure shall provide for an administrative review process and an external review process which shall be advisory to the state auditor's office. The number of appeals and their disposition shall be included in the auditor's annual report. [1982 c 206 § 3.]

43.09.282 Division of municipal corporations—Municipal revolving fund—Records of auditing costs. (Effective July 1, 1983.) For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on taxing districts by the state auditor, there is hereby created a fund entitled the municipal revolving fund. The state treasurer shall be custodian of the fund. All moneys received by the division of municipal corporations or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal revolving fund. Funds in the municipal revolving fund will be spent only after appropriation by the legislature. Such appropriated funds shall be administered by the division of municipal corporations. The division of municipal corporations shall keep such records as are necessary to detail the auditing costs attributable to the various types of taxing districts. [1982 c 206 § 2; 1965 c 8 § 43.09.282. Prior: 1963 c 209 § 6.]

Effective date—1982 c 206 § 2: "Section 2 of this act shall take effect on July 1, 1983." [1982 c 206 § 4.]

Chapter 43.17

ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

Sections

43.17.070 Administrative committees.

Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action: RCW 43.01.210.

43.17.070 Administrative committees. There shall be administrative committees of the state government, which shall be known as: (1) The state finance committee and (2) the state capitol committee. [1982 c 40 § 8; 1965 c 8 § 43.17.070. Prior: 1929 c 115 § 3; 1921 c 7 § 4; RRS § 10762.]

Severability—1982 c 40: See note following RCW 29.33.041.
State capitol committee: Chapter 43.34 RCW.
State finance committee: Chapter 43.33 RCW.

Chapter 43.19

DEPARTMENT OF GENERAL ADMINISTRATION

Sections

- 43.19.100 Supervisor of savings and loan associations—Appointment—Qualifications—Deputization and appointment of assistants and personnel.
- 43.19.185 State purchasing and material control director—System for the use of credit cards or similar devices to be developed—Rules.
- 43.19.450 Supervisor of engineering and architecture—Qualifications—Appointment—Powers and duties—Delegation of authority.
- 43.19.500 Department of general administration facilities and services revolving fund. (Effective July 1, 1983.)
- 43.19.532 Purchase of printing, copying, microfilming, and related services from day training centers, group training homes, or sheltered workshops—Conditions—Exceptions—Expiration of section—Performance audit.
- 43.19.537 Definitions.
- 43.19.538 Purchase of recycled paper products—Preference—Specifications and rules—Review—Report.
- 43.19.570 Motor vehicle transportation service—Responsibilities—Agreements with other agencies—Facilities.
- 43.19.580 Repealed.
- 43.19.582 Motor vehicle transportation service—Automotive policy board abolished—Transfer of powers, duties, and functions.
- 43.19.600 Motor vehicle transportation service—Transfer of passenger motor vehicles to department from other agencies—Studies.
- 43.19.670 Energy conservation—Definitions.
- 43.19.675 Energy audits of state-owned facilities required—Completion dates.
- 43.19.680 Implementation of energy conservation and maintenance procedures after walk-through survey—Transmission of results of energy consumption and walk-through surveys—Schedule for technical assistance studies—Schedule for completion of energy conservation measures—Reports.
- 43.19.685 Lease covenants, conditions, and terms to be developed—Applicability.

Agencies to review licensure requirements and report to governor: RCW 19.02.120.

43.19.100 Supervisor of savings and loan associations—Appointment—Qualifications—Deputization and appointment of assistants and personnel. The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of savings and loan associations, who shall have charge and supervision of the division of savings and loan associations.

With the approval of the director, he may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division.

No person shall be eligible for appointment as supervisor of savings and loan associations unless he is, and, for at least two years prior to appointment has been, a citizen of the United States and a resident of this state. If the appointee is, at the time of appointment, a director, officer, or stockholder of an association or credit union, the appointee shall resign as such director or officer, or dispose of the stock prior to assuming office as supervisor.

In the event of the supervisor's absence the director of general administration shall have the power to deputize one of the assistants of the supervisor to perform day to day functions that are performed by the supervisor so long as the supervisor is absent: *Provided*, That such deputized supervisor shall not have the power to approve or disapprove new charters, branches, or satellite facilities. Any person so deputized shall possess the same qualifications as those set out in this section for the supervisor. [1982 c 3 § 113; 1977 ex.s. c 185 § 2; 1965 c 8 § 43.19.100. Prior: 1955 c 285 § 7; 1935 c 176 § 13; RRS § 10786–12.]

Severability—1982 c 3: See note following RCW 33.04.002.

43.19.185 State purchasing and material control director—System for the use of credit cards or similar devices to be developed—Rules. (1) The director of general administration through the state purchasing and material control director shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract with a financial institution or institutions in this state to administer the credit cards.

(2) The director of general administration through the state purchasing and material control director shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;
- (d) Instructing users of gasoline credit cards to use self-service islands whenever possible;
- (e) Payments of the bills; and
- (f) Any other rule necessary to implement or administer the program under this section. [1982 1st ex.s. c 45 § 1.]

43.19.450 Supervisor of engineering and architecture—Qualifications—Appointment—Powers and

duties—Delegation of authority. The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fisheries, department of game, department of natural resources, or state parks and recreation commission.

The director of general administration, through the division of engineering and architecture shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

The director may delegate the authority granted to the department under RCW 39.04.150 to any agency upon such terms as considered advisable. [1982 c 98 § 3; 1981 c 136 § 63; 1979 c 141 § 45; 1965 c 8 § 43.19.450. Prior: 1959 c 301 § 4.]

Effective date—1981 c 136: See RCW 72.09.900.

Department of general administration authorized to establish small works roster of public works contractors: RCW 39.04.150.

43.19.500 Department of general administration facilities and services revolving fund. (Effective July 1, 1983.) There is hereby created a fund within the state treasury designated as the "department of general administration facilities and services revolving fund". Such

revolving fund shall be used by the department of general administration for the payment of certain costs, expenses, and charges, as hereinafter specified, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010. The department shall treat the rendering of services in acquiring real estate as a separate operating entity within the fund for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be determined jointly by the director of general administration and the director of financial management, in amounts which, together with any other income or appropriation, will provide the department of general administration with funds to meet its anticipated expenditures during any allotment period.

The director of general administration may promulgate rules and regulations governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department of general administration and such other entities. [1982 c 41 § 2; 1979 c 151 § 101; 1971 ex.s. c 159 § 2.]

Effective dates—1982 c 41: See note following RCW 43.82.010.

General administration facilities and services revolving fund—Approval of certain changes required: RCW 43.88.350.

43.19.532 Purchase of printing, copying, microfilming, and related services from day training centers, group training homes, or sheltered workshops—Conditions—Exceptions—Expiration of section—Performance audit. (1) State agencies and departments shall purchase printing, related trade services, and total copy system services for projects under two hundred dollars directly from day training centers and group training homes as defined in RCW 72.33.800 or sheltered workshops as defined in RCW 82.04.385, if the agencies or departments are located within a reasonable distance from the sheltered workshops, training centers, or group training homes. State agencies and departments may purchase microfilming and related services from day training centers, group training homes or sheltered workshops. All microfilming and related services purchased under this section shall be purchased at a price equal to or less than the fair market value. Total copy system services offered by such centers, homes, and sheltered workshops shall not replace the use by agencies and departments of in-house convenience copiers, in-house printing and binding facilities, or in-place total copy systems. All printing services and related trade services purchased under this section shall be purchased at a price equal to or less than the fair market value as determined by the standard trade pricing manuals. Copy services shall be purchased at a price equal to or less

than the competitive price that is standard in the county. Such homes, centers, or sheltered workshops shall only accept work for which they can provide normal quality in a reasonable time period. All the work that such home, center, or sheltered workshop contracts to do shall be performed at the home's or center's facility or at the sheltered workshop and not by any other printing company. State agencies and departments shall purchase from other authorized sources when the service cannot be supplied by such homes, centers, or sheltered workshops. Institutions of higher education are not required to purchase printing, related trade services, or total copy system services under this section.

(2) The regional directors for vocational rehabilitation shall provide homes, centers, and sheltered workshops with the name and address of each state agency or department requiring these services within the county and copies of this section. The regional directors shall provide the public printer with the names and addresses of such homes, centers, or sheltered workshops.

(3) The public printer shall investigate and have the authority to correct any claims that an agency or department is being overcharged for either printing or related trade or copying services.

(4) This section shall expire June 30, 1986, unless extended by law for an additional fixed period of time. The legislative budget committee shall cause a performance audit to be conducted of the program under this section. The final audit report shall be available to the legislature at least six months prior to the scheduled expiration date. The audit shall include, but is not limited to, objective findings of fact, conclusions, and recommendations as to continuation, modification, or termination of the program under this section. [1982 c 164 § 1.]

43.19.537 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.19.538.

(1) "Postconsumer waste" means a finished paper, woodpulp material, or cotton rags which would normally be disposed of as solid waste.

(2) "Recycled paper" means paper and woodpulp products with at least fifty percent of the total weight consisting of postconsumer waste. [1982 c 61 § 1.]

43.19.538 Purchase of recycled paper products—Preference—Specifications and rules—Review—

Report. (1) The director of general administration, through the state purchasing director, shall develop specifications and adopt rules for the purchase of paper products which will provide for preferential purchase, when feasible, of paper products containing recycled paper. The specifications shall include:

(a) Giving preference to suppliers of recycled paper products if the bids do not exceed the lowest bid offered by suppliers of paper products that are not recycled.

(b) Requiring paper products with the highest quantity of postconsumer waste.

(c) Requiring paper products that may be recycled or reused to be purchased if the quality, price, and grade are otherwise equal to other paper products.

(2) The recycled paper content specifications shall be reviewed annually to consider increasing the percentage of recycled paper.

(3) The director of general administration shall report to the legislature about the revision of specifications under this section by the first day of each annual legislative session. [1982 c 61 § 2.]

State purchasing and material control director: RCW 43.19.180.

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. 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. [1982 c 163 § 11; 1975 1st ex.s. c 167 § 4.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

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

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

43.19.582 Motor vehicle transportation service—Automotive policy board abolished—Transfer of powers, duties, and functions.

The automotive policy board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the department of general administration. [1982 c 163 § 10.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

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 financial 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 department 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 held by the department, 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 the governor or the governor's designee. [1982 c 163 § 12; 1979 c 151 § 102; 1975 1st ex.s. c 167 § 10.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

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

43.19.670 Energy conservation—Definitions. As used in RCW 43.19.670 through 43.19.685, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a facility which consists of the following elements:

(a) An energy consumption survey which identifies the type, amount, and rate of energy consumption of the facility and its major energy systems. This survey shall be made by the agency responsible for the facility.

(b) A walk-through survey which determines appropriate energy conservation maintenance and operating procedures and indicates the need, if any, for the acquisition and installation of energy conservation measures. This survey shall be made by the agency responsible for the facility if it has technically qualified personnel available. The director of general administration shall provide technically qualified personnel to the responsible agency if necessary.

(c) A technical assistance study, which is an intensive engineering analysis of energy conservation measures for the facility, net energy savings, and a cost-effectiveness determination. This element is required only for those facilities designated in the technical assistance study schedule adopted under RCW 43.19.680(3).

(2) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including:

(a) Insulation of the facility structure and systems within the facility;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and

coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;

(j) Energy recovery systems; and

(k) Such other measures as the director finds will save a substantial amount of energy.

(3) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

(4) "Facility" means a building, a group of buildings served by a central energy distribution system, or components of a central energy distribution system.

(5) "Implementation plan" means the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit. [1982 c 48 § 1; 1980 c 172 § 3.]

43.19.675 Energy audits of state-owned facilities required—Completion dates. The director of general administration, in cooperation with the director of the state energy office, shall conduct, by contract or other arrangement, an energy audit for each state-owned facility. All energy audits shall be coordinated with and complement other governmental energy audit programs. The energy audit for each state-owned facility located on the capitol campus shall be completed no later than July 1, 1981, and the results and findings of each energy audit shall be compiled and transmitted to the governor and the legislature no later than October 1, 1981. For every other state-owned facility, the energy consumption surveys shall be completed no later than October 1, 1982, and the walk-through surveys shall be completed no later than July 1, 1983. [1982 c 48 § 2; 1980 c 172 § 4.]

43.19.680 Implementation of energy conservation and maintenance procedures after walk-through survey—

Transmission of results of energy consumption and walk-through surveys—Schedule for technical assistance studies—Schedule for completion of energy conservation measures—Reports. (1) Upon completion of each walk-through survey required by RCW 43.19.675, the director of general administration or the agency responsible for the facility if other than the department of general administration shall implement energy conservation maintenance and operation procedures that may be identified for any state-owned facility. These procedures shall be implemented as soon as possible but not later than twelve months after the walk-through survey.

(2) By December 31, 1981, for the capitol campus the director of general administration, in cooperation with the director of the state energy office, shall prepare and transmit to the governor and the legislature an implementation plan.

(3) By December 31, 1983, for all other state-owned facilities, the director of general administration in cooperation with the director of the state energy office shall prepare and transmit to the governor and the legislature the results of the energy consumption and walk-through surveys and a schedule for the conduct of technical assistance studies. This submission shall contain the energy conservation measures planned for installation during the ensuing biennium. Priority considerations for scheduling technical assistance studies shall include but not be limited to a facility's energy efficiency, responsible agency participation, comparative cost and type of fuels, possibility of outside funding, logistical considerations such as possible need to vacate the facility for installation of energy conservation measures, coordination with other planned facility modifications, and the total cost of a facility modification, including other work which would have to be done as a result of installing energy conservation measures. Energy conservation measure acquisitions and installations shall be scheduled to be twenty-five percent complete by June 30, 1985, or at the end of the capital budget biennium which includes that date, whichever is later, fifty-five percent complete by June 30, 1989, or at the end of the capital budget biennium which includes that date, whichever is later, eighty-five percent complete by June 30, 1993, or at the end of the capital budget biennium which includes that date, whichever is later, and fully complete by June 30, 1995, or at the end of the capital budget biennium which includes that date, whichever is later.

For each biennium until all measures are installed, the director of general administration shall report to the governor and legislature installation progress, measures planned for installation during the ensuing biennium, and changes, if any, to the technical assistance study schedule. This report shall be submitted by December 31, 1984, or at the end of the following year whichever immediately precedes the capital budget adoption, and every two years thereafter until all measures are installed. [1982 c 48 § 3; 1980 c 172 § 5.]

43.19.685 Lease covenants, conditions, and terms to be developed—Applicability. The director of general

administration shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and

(3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director of general administration, in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet. [1982 c 48 § 4; 1980 c 172 § 6.]

Chapter 43.20A

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Sections

43.20A.055 License fees to be charged by secretary—Exemptions, waiver—Review and comment.

Agencies to review licensure requirements and report to governor:
RCW 19.02.120.

Council on child abuse and neglect, secretary or designee as member:
RCW 43.121.020.

Secretary
board of review, business registration and licensing system, member: RCW 19.02.040.

State occupational forecast—Other agencies consulted prior to:
RCW 50.38.030.

43.20A.055 License fees to be charged by secretary—Exemptions, waiver—Review and comment.

(1) The term "license" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.

(2) The secretary shall charge fees to the licensee for obtaining a license. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(3) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the

activity or class of activities and may include costs of necessary inspection.

(4) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees. [1982 c 201 § 2.]

Chapter 43.21A

DEPARTMENT OF ECOLOGY

Sections

- 43.21A.450 Control of outflow and level of Lake Osoyoos—Lake Osoyoos International Water Control Structure authorized.
- 43.21A.500 Exemption from water and flood control requirements of emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section.

Agencies to review licensure requirements and report to governor: RCW 19.02.120.

Exemptions for emergency recovery operations from Mt. St. Helens eruption authorized: RCW 43.21C.500, 89.16.500, 90.58.500.

43.21A.450 Control of outflow and level of Lake Osoyoos—Lake Osoyoos International Water Control Structure authorized. (1) The legislature recognizes the need for the state of Washington to implement an understanding reached with the Province of British Columbia in relation to controlling the outflow and level of Lake Osoyoos, an international lake, and in connection therewith to replace an existing lake control structure on the Okanogan river in Washington state which has been classified as deteriorated and unsafe.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, construct, own, operate, and maintain a project to be known as the Lake Osoyoos International Water Control Structure and may acquire all real property interests necessary thereto by purchase, grant, gift, or eminent domain; provided that the authority of eminent domain as granted to the department under this section is limited to acquiring property necessary for access to the control structure, location of abutments for the control structure, and flowage easements if necessary.

(3) The department may accept and administer grants or gifts from any source for the purpose of carrying out subsection (2) of this section.

(4) The department may exercise its powers under subsection (2) of this section directly or through contracts, except that it may not delegate its authority of eminent domain. The department may also enter into agreements with any public or municipal corporation with respect to operation and maintenance of the project authorized under subsection (2) of this section. [1982 c 76 § 1.]

Intent—1982 c 76: "It is the intent of this legislature in enacting this act that total capital costs and annual operations and maintenance costs for the said project be shared equally by Washington state and British Columbia." [1982 c 76 § 2.] "This act" consists of the enactment of RCW 43.21A.450, the above-quoted section, and an appropriation section, which is uncodified.

43.21A.500 Exemption from water and flood control requirements of emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section. Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210 may be exempted by the applicable county legislative authority from the requirements related to water and flood control under the department of ecology, for operations within such county: *Provided*, That the applicable legislative authority shall promptly notify the department of ecology of the emergency action taken and the emergent nature of the problem.

This section shall expire on June 30, 1984. [1982 c 7 § 7.]

Severability—1982 c 7: See note following RCW 36.01.150.

Chapter 43.21C

STATE ENVIRONMENTAL POLICY

Sections

- 43.21C.220 Incorporation of city or town exempt from chapter.
- 43.21C.500 Exemption from this chapter of emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section.

43.21C.220 Incorporation of city or town exempt from chapter. The incorporation of a city or town is exempted from compliance with this chapter. [1982 c 220 § 6.]

Severability—1982 c 220: See note following RCW 36.93.100.
Incorporation proceedings exempt from chapter: RCW 36.93.170.

43.21C.500 Exemption from this chapter of emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section. Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210 may be exempted by the applicable county legislative authority from the requirements of the State Environmental Policy Act of 1971, chapter 43.21C RCW, for operations within such county: *Provided*, That the applicable legislative authority shall promptly notify the department of ecology of the emergency action taken and the emergent nature of the problem.

This section shall expire on June 30, 1984. [1982 c 7 § 5.]

Severability—1982 c 7: See note following RCW 36.01.150.

Chapter 43.21E

GRASS BURNING RESEARCH ADVISORY COMMITTEE

Sections

- 43.21E.905 Reactivation of committee—Application of chapter.

43.21E.905 Reactivation of committee—Application of chapter. Notwithstanding RCW 43.21E.900, within thirty days or after June 30, 1982, the director shall reactivate the grass burning research advisory

committee by appointing new members to the committee. The provisions of this chapter, other than RCW 43.21E.900, shall apply to the reactivated committee. [1982 c 163 § 15.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Chapter 43.22

DEPARTMENT OF LABOR AND INDUSTRIES

Sections

- 43.22.280 Repealed.
43.22.282 Industrial welfare committee abolished—Transfer of powers, duties, and functions.

Agencies to review licensure requirements and report to governor: RCW 19.02.120.

Director

board of review, business registration and licensing system, member: RCW 19.02.040.

Prevailing wages on public works—Director of labor and industries to arbitrate disputes: RCW 39.12.060.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

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

43.22.282 Industrial welfare committee abolished—Transfer of powers, duties, and functions. The industrial welfare committee established by this chapter is abolished. All powers, duties, and functions of the committee are transferred to the director of labor and industries. [1982 c 163 § 16.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Chapter 43.24

DEPARTMENT OF LICENSING

Sections

- 43.24.060 Examinations—Committees—Duties, compensation, travel expenses.
43.24.085 License or registration fees for businesses, occupations and professions—Policy—Maximum fees—Determination (as amended by 1982 c 162).
43.24.085 License or registration fees for businesses, occupations and professions—Policy—Minimums and maximums—Determination (as amended by 1982 c 205).
43.24.085 License or registration fees for businesses, occupations and professions—Policy—Minimums and maximums—Determination (as amended by 1982 c 227).

Agencies to review licensure requirements and report to governor: RCW 19.02.120.

Auctioneers: Chapter 18.11 RCW.

Business license center act, departmental and director duties: Chapter 19.02 RCW.

Director

board of review, business registration and licensing system, member: RCW 19.02.040.

business license center as secretary's agent for corporate renewals—Proposals for—Schedule: RCW 43.07.200.

43.24.060 Examinations—Committees—Duties, compensation, travel expenses. (1) The director of licensing shall, from time to time, fix such times and places for holding examinations of applicants as may be convenient, and adopt general rules and regulations prescribing the method of conducting examinations.

The governor, from time to time, upon the request of the director of licensing, shall appoint examining committees, composed of three persons possessing the qualifications provided by law to conduct examinations of applicants for licenses to practice the respective professions or callings for which licenses are required.

The committees shall prepare the necessary lists of examination questions, conduct the examinations, which may be either oral or written, or partly oral and partly written, and shall make and file with the director of licensing lists, signed by all the members conducting the examination, showing the names and addresses of all applicants for licenses who have successfully passed the examination, and showing separately the names and addresses of the applicants who have failed to pass the examination, together with all examination questions and the written answers thereto submitted by the applicants.

Each member of a committee shall receive twenty-five dollars per day for each day spent in conducting the examination and in going to and returning from the place of examination, and travel expenses, in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The director of licensing may appoint advisory committees to advise the department regarding the preparation of examinations for professional licensing and such other specific aspects of regulating the professions within the jurisdiction of the department as the director may designate. Such a committee and its members shall serve at the pleasure of the director.

Each member of an advisory committee shall receive reimbursement for travel expenses incurred in attending meetings of the committee in accordance with RCW 43.03.060. [1982 c 227 § 15; 1979 c 158 § 98; 1975-'76 2nd ex.s. c 34 § 105; 1965 c 100 § 3; 1965 c 8 § 43.24.060. Prior: 1921 c 7 § 99; RRS § 10857.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

43.24.085 License or registration fees for businesses, occupations and professions—Policy—Maximum fees—Determination (as amended by 1982 c 162). It shall be the policy of the state of Washington that the director of licensing 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 business and professions administration in the department of licensing. 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 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 in excess of forty dollars:

(a) Barber;

- (b) Student barber;
- (c) Cosmetologist (manager-operator);
- (d) Cosmetologist (operator);
- (e) Cosmetologist (instructor-operator);
- (f) Apprentice embalmer;
- (g) Manicurist;
- (h) Apprentice funeral director;
- (i) Registered nurse;
- (j) Licensed practical nurse;
- (k) Charitable organization;
- (l) Professional solicitor;
- (m) Permit barber;
- (n) Manicurist (manager-operator);
- (o) Animal technician; and

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

- (a) Dental hygienist;
- (b) Barber instructor;
- (c) Barber manager instructor;
- (d) Psychologist;
- (e) Embalmer;
- (f) Funeral director;
- (g) Veterinarian;
- (h) Cosmetology shop;
- (i) Barber shop;
- (j) Physician's assistant;
- (k) Osteopathic physician's assistant;
- (l) Certified registered nurse;
- (m) Physical therapist;
- (n) Manicurist shop; and

(3) In no event shall the license or registration renewal fee in the following cases be fixed at an amount in excess of one hundred dollars:

- (a) Architect;
- (b) Dentist;
- (c) Engineer;
- (d) Land surveyor;
- (e) Midwife;
- (f) Podiatrist;
- (g) Chiropractor;
- (h) Drugless therapeutic;
- (i) Osteopathic physician;
- (j) Osteopathic physician and surgeon;
- (k) Physician and surgeon;
- (l) Optometrist;
- (m) Dispensing optician;
- (n) Landscape architect;
- (o) Nursing home administrator;
- (p) Hearing aid fitter;
- (q) Massage operator;
- (r) Massage business owner/operator;
- (s) Ocularist; and

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

- (a) Engineer corporation;
- (b) Engineer partnership;
- (c) Cosmetology school;
- (d) Barber school;
- (e) Debt adjuster agency;
- (f) Debt adjuster branch office;
- (g) Debt adjuster;
- (h) Employment agency;
- (i) Employment agency branch office;
- (j) Collection agency;
- (k) Collection agency branch office;
- (l) Professional fund raiser;
- (m) Funeral establishment;
- (n) Massage business.

[1982 c 162 § 1; 1981 c 53 § 16; 1979 c 158 § 100; 1975 1st ex.s. c 30 § 93; 1971 ex.s. c 266 § 21.]

43.24.085 License or registration fees for businesses, occupations and professions—Policy—Minimums and maximums—Determination (as amended by 1982 c 205). It shall be the policy of the state of Washington that the director of licensing 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 business and professions administration in the department of licensing. 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:

- Auctioneer trainee
- Barber
- Student barber
- Cosmetologist (manager-operator)
- Cosmetologist (operator)
- Cosmetologist (instructor-operator)
- Apprentice embalmer
- Manicurist
- Apprentice funeral director
- 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
- Midwife
- 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:

- Auctioneer
- 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.
 [1982 c 205 § 4; 1981 c 53 § 16; 1979 c 158 § 100; 1975 1st ex.s. c 30 § 93; 1971 ex.s. c 266 § 21.]

Severability—1982 c 205: See RCW 18.11.920.

43.24.085 License or registration fees for businesses, occupations and professions—Policy—Minimums and maximums—Determination (as amended by 1982 c 227). It shall be the policy of the state of Washington that the director of licensing 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 business and professions administration in the department of licensing. 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;

(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
 Midwife
 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.

[1982 c 227 § 16; 1981 c 53 § 16; 1979 c 158 § 100; 1975 1st ex.s. c 30 § 93; 1971 ex.s. c 266 § 21.]

Reviser's note: RCW 43.24.085 was amended three times during the 1982 regular session of the legislature, each without reference to the other.

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

Effective date—1982 c 227: See note following RCW 18.34.130.

Effective date—1981 c 53: See note following RCW 18.50.005.

Chapter 43.31

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Sections

43.31.090 Repealed.
 43.31.100 Repealed.
 43.31.832 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Expenditure.
 43.31.925 Office of small business—Duties.
 43.31.950 through 43.31.954 Repealed.

Director

board of review, business registration and licensing system, member: RCW 19.02.040.

Regulatory fairness act: Chapter 19.85 RCW.

Small business innovators' opportunity program, pilot project: Chapter 43.170 RCW.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

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

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

43.31.832 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Expenditure. 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 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: *Provided*, That the director may also elect to expend up to one million dollars of such surplus on the department of commerce and economic development foreign trade related activities, including, but not limited to, promotion of investment pursuant to RCW 43.31-.060, tourism pursuant to RCW 43.31.050, and foreign

trade pursuant to RCW 43.31.350 through 43.31.370. [1981 2nd ex.s. c 2 § 1; 1975 1st ex.s. c 292 § 8; 1972 ex.s. c 93 § 2.]

State trade fair fund: RCW 67.16.100.

43.31.925 Office of small business—Duties. The department through its office of small business shall:

(1) Provide a focal point and assist small businesses in their dealings with federal, state, and local governments, including but not limited to providing ready access to information regarding government requirements which affect small businesses;

(2) Develop programs which will assist or otherwise encourage professional or business associations and other service organizations in the public sector to provide useful and needed services to small businesses;

(3) Arrange for and hold meetings, in cooperation with public schools, community colleges, colleges, universities, and other public and private educational programs to the extent practicable, which provide worthwhile training and dissemination of information beneficial to the state's small businesses;

(4) Assist small businesses in obtaining available technical and financial assistance and counsel;

(5) Coordinate with all other state agencies to foster participation of small businesses in providing services and materials to state agencies as follows:

(a) Provide a guide to businesses on the purchasing procedures and practices of state agencies, including a list of state employees responsible for such state purchases. The guide shall be updated at least every two years;

(b) Assist the state agencies in developing master bid lists which include small businesses;

(c) Secure information from all state agencies as to the size of businesses supplying goods and services to each state agency; and

(d) Assist each state agency so that a larger percentage of the goods and services purchased by each state agency can be supplied by small businesses;

(6) Conduct research in the following areas:

(a) Identify business associations which represent small businesses and maintain an up to date list of such associations;

(b) Develop methods and practices to encourage prime contractors to let subcontracts to small businesses;

(c) Research methods to use small businesses for developing economically depressed areas or providing jobs for unemployed persons;

(d) Develop programs to be used by all state agencies to encourage the development of small businesses. The office shall coordinate these programs with the political subdivisions of the state; and

(e) Coordinate the office's activities with the federal small business administration, the small business committees of the two houses of the United States congress, and all other state or federal agencies formed for the purpose of aiding small businesses; and

(7) Upon request by any agency, provide assistance in the preparation of a small business economic impact

statement relative to a proposal to adopt, amend, or repeal any rule which will have an economic impact on more than twenty percent of all businesses or more than ten percent of all of the businesses in any one industry. [1982 c 6 § 9; 1977 ex.s. c 70 § 3.]

Severability—1982 c 6: See RCW 19.85.900.

Severability—1977 ex.s. c 70: See note following RCW 43.31.915.

Small business economic impact statement—Purpose—Contents: RCW 19.85.040.

43.31.950 through 43.31.954 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.31A

ECONOMIC ASSISTANCE ACT OF 1972

Sections

43.31A.160 Investment projects—Audit—Repayment schedule.

43.31A.160 Investment projects—Audit—Repayment schedule. The department of revenue shall conduct an audit of the project upon its completion in order to determine the total amount of tax deferral. Any tax found due on nonqualifying construction or purchases shall be immediately assessed and payable. The manufacturing firm will begin paying the deferred taxes on December 31st of the calendar year in which the construction project has been certified as operationally completed, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	Percent of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

If the construction project has been certified as operationally completed prior to October 1, 1982, but repayment has not yet begun for the project, then the manufacturing firm will begin paying the deferred taxes on December 31, 1982 pursuant to the schedule provided in this section. [1982 2nd ex.s. c 6 § 1; 1972 ex.s. c 117 § 16.]

Amendment of certificates required—1982 2nd ex.s. c 6: "The department of revenue shall amend any investment tax deferral certificates to conform with this 1982 act." [1982 2nd ex.s. c 6 § 2.] "This act" consists of the 1982 2nd ex.s. c 6 amendment to RCW 43.31A.160.

Sunset Act application: See note following chapter digest.

Chapter 43.32

DESIGN STANDARDS COMMITTEE

Sections

43.32.010 Composition of committee.

43.32.010 Composition of committee. There is created a state design standards committee of seven members, six of which shall be appointed by the executive committee of the Washington state association of counties to hold office at its pleasure and the seventh to be the state aid engineer for the department of transportation. The members to be appointed by the executive committee of the Washington state association of counties shall be restricted to the membership of such association or to those holding the office and/or performing the functions of county engineer in any of the several counties of the state. [1982 c 145 § 4; 1971 ex.s. c 85 § 6; 1965 c 8 § 43.32.010. Prior: 1949 c 165 § 2; RRS § 6450-8.]

Design standards committee for arterial streets: Chapter 35.78 RCW.

Chapter 43.33A

STATE INVESTMENT BOARD

Sections

- 43.33A.160 Funding of board—State investment board expense account.
43.33A.170 State investment board commingled trust fund—Participation of funds in investments of board.

43.33A.160 Funding of board—State investment board expense account. (1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established within the general fund a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board. [1982 c 10 § 10. Prior: 1981 c 242 § 1; 1981 c 219 § 5; 1981 c 3 § 16.]

Severability—1982 c 10: See note following RCW 6.12.100.

Effective dates—1981 c 242: See note following RCW 43.79.330.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.170 State investment board commingled trust fund—Participation of funds in investments of board. There is established in the state treasury the state investment board commingled trust fund. At the discretion of the state investment board, the funds under the jurisdiction of the board may participate in the investments made by the board through the state investment board

commingled trust fund. The state investment board may establish accounts within the commingled trust fund as necessary for the implementation of specific investment programs. [1982 c 58 § 1.]

Chapter 43.38

TAX ADVISORY COUNCIL

Sections

- 43.38.010 Tax advisory council created—Appointment, travel expenses (as amended by 1982 1st ex.s. c 30).
43.38.010 Tax advisory council created—Appointment, travel expenses (as amended by 1982 1st ex.s. c 41).
43.38.020 Powers and duties.
43.38.050 Repealed.

43.38.010 Tax advisory council created—Appointment, travel expenses (as amended by 1982 1st ex.s. c 30). There is hereby created a tax advisory council to consist of fifteen members to be appointed by the governor. Members shall be chosen who represent the major segments of the state's economy, and at least one member shall be chosen from each congressional district of the state now or hereafter existing. Members shall serve without pay at the pleasure of the governor but shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended incurred in their travel to and from meetings of the council and while attending all meetings of the council.

The council shall not be deemed to be unlawfully constituted and a member of the council shall not be deemed ineligible to serve on the board solely by reason of the establishment of new or revised boundaries for congressional districts. However, appointments made after the effective date of such establishment shall be from congressional districts which are not represented on the council. [1982 1st ex.s. c 30 § 12; 1975-'76 2nd ex.s. c 34 § 113; 1965 c 8 § 43.38.010. Prior: 1957 c 291 § 1.]

43.38.010 Tax advisory council created—Appointment, travel expenses (as amended by 1982 1st ex.s. c 41). There is hereby created a tax advisory council to consist of twelve members to be appointed by the governor. Members shall be chosen who represent the major segments of the state's economy, and at least one member shall be chosen from each congressional district of the state. In addition, the president of the senate and the speaker of the house of representatives shall each appoint two members, one from each caucus of the respective house. Members shall serve without pay at the pleasure of the governor but shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended incurred in their travel to and from meetings of the council and while attending all meetings of the council. Legislative members shall be reimbursed for travel expenses as provided in RCW 44.04.120. [1982 1st ex.s. c 41 § 1; 1975-'76 2nd ex.s. c 34 § 113; 1965 c 8 § 43.38.010. Prior: 1957 c 291 § 1.]

Reviser's note: RCW 43.38.010 was amended twice during the 1982 first extraordinary session of the legislature, each without reference to the other.

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

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

43.38.020 Powers and duties. The council shall survey and analyze all aspects of state tax statutes and policies, including but not limited to: Improved efficiency in the administration and collection of state taxes, elasticity, equity of burden, adequacy of the state's tax structure, and the desirability of existing tax exemptions. Recommendations of the council shall be submitted to the governor and the committees on ways and means of the senate and house of representatives at least one month prior to the convening of each regular session of

the legislature. If the recommendations adopted by the council do not receive the unanimous approval of its members, the dissenting members shall have the privilege of submitting minority recommendations. [1982 1st ex.s. c 41 § 2; 1965 c 8 § 43.38.020. Prior: 1957 c 291 § 2.]

Termination of tax preferences: Chapter 43.136 RCW.

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

Chapter 43.41

OFFICE OF FINANCIAL MANAGEMENT

Sections

- 43.41.110 Powers and duties of office of financial management.
- 43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels.
- 43.41.200 Legislative findings.
- 43.41.202 Definitions.
- 43.41.204 Annual report to office—Form burden.
- 43.41.206 Proof of reduction in form burden required—
Waiver—Prohibition on increase in form burden, exception.
- 43.41.208 Rules—Review of agency reports—Annual report to legislature.
- 43.41.210 Placement of appropriated funds in reserve for noncompliance—Amount—Duration.
- 43.41.212 Expiration of RCW 43.41.200 through 43.41.212.

Director

board of review, business registration and licensing system, member: RCW 19.02.040.

business license center as secretary's agent for corporate renewals—Proposals for—Schedule: RCW 43.07.200.

Motor vehicle fund, distribution of amount to counties, office to furnish information: RCW 46.68.124.

Regulatory fairness act, office of financial management participation: Chapter 19.85 RCW.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

43.41.110 Powers and duties of office of financial management. The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, interdepartmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

(9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

(10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

(11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

(12) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

(13) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds. [1981 2nd ex.s. c 4 § 13; 1979 c 10 § 3. Prior: 1977 ex.s. c 110 § 4; 1977 ex.s. c 25 § 6; 1969 ex.s. c 239 § 11.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels. The director of financial management, after consultation with other interested or affected state agencies, 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. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

Such policies shall also include the widest possible use of gasohol and cost-effective alternative fuels in all motor vehicles owned or operated by any state agency. As used in this section, "gasohol" means motor vehicle fuel which contains more than nine and one-half percent alcohol by volume. [1982 c 163 § 13; 1980 c 169 § 1; 1979 c 111 § 12; 1975 1st ex.s. c 167 § 5.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1979 c 111: See note following RCW 46.74.010.

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

Commuter ride sharing: Chapter 46.74 RCW.

Motor vehicle transportation: RCW 43.19.560–43.19.635.

43.41.200 Legislative findings. The legislature finds that the functioning of state government, business, and individual activities is becoming increasingly more cumbersome as the number, length, and complexity of forms increase and that the forms burden imposed by the state can be a hindrance to the citizens of the state and can add to the costs of products and services. Eliminating unnecessary forms will simplify paperwork, increase efficiency, effect productivity improvements, and reduce costs related to the amount of time individuals and businesses are required to take to complete various forms and to the procurement, printing, storage, use, and distribution of forms. [1982 c 214 § 2.]

Short title—1982 c 214: "This act may be known and cited as the forms reduction act of 1982." [1982 c 214 § 1.]

43.41.202 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.41.204 through 43.41.210.

(1) "State agency" or "agency" means and is limited to each of the following: The department of licensing, the department of labor and industries and the department of revenue.

(2) "Form" means a printed document providing entry space for variable information. [1982 c 214 § 3.]

Short title—1982 c 214: See note following RCW 43.41.200.

43.41.204 Annual report to office—Form burden.

(1) By July 30, 1983, and by July 30 of each even-numbered year thereafter, each state agency shall report the following information to the office of financial management for the previous fiscal year ending on June 30:

(a) The estimated total number of hours required to fill out each form; and

(b) The estimated number of people filling out each form.

(2) The product of the numbers provided under (a) of subsection (1) of this section multiplied by the numbers provided under (b) of subsection (1) of this section constitutes the form burden for each form.

(3) The sum of all the products in subsection (2) of this section for each agency constitutes the agency's form burden for that fiscal year. [1982 c 214 § 4.]

Short title—1982 c 214: See note following RCW 43.41.200.

43.41.206 Proof of reduction in form burden required—Waiver—Prohibition on increase in form burden, exception. (1) For the fiscal year ending on June 30, 1984, each agency shall satisfy the director that it has reduced by fifteen percent its form burden that it had for the fiscal year ending on June 30, 1983. The director of financial management may specifically waive

this requirement for an agency if necessary for the efficient and effective administration of the agency and the carrying out of its duties.

(2) An agency's form burden established under subsection (1) of this section for the fiscal year ending on June 30, 1984, shall not be increased except with the specific authorization of the director after a finding by the director that the increase is necessary for the efficient and effective administration of the agency and the carrying out of its duties. [1982 c 214 § 5.]

Short title—1982 c 214: See note following RCW 43.41.200.

43.41.208 Rules—Review of agency reports—Annual report to legislature. The director shall adopt rules governing the reports required under RCW 43.41.204. The director shall review each report to determine whether it is an accurate estimate of the agency's form burden. By November 1, 1983, and by November 1 of each even-numbered year thereafter, the director shall provide a report to the speaker of the house of representatives and the president of the senate showing the agencies, if any, which have not complied with RCW 43.41.200 through 43.41.206 and shall report each agency's form burden and the total state-wide form burden. [1982 c 214 § 6.]

Short title—1982 c 214: See note following RCW 43.41.200.

43.41.210 Placement of appropriated funds in reserve for noncompliance—Amount—Duration. The director of financial management shall place one-half of one percent of all funds appropriated to an agency in reserve if the agency does not comply with RCW 43.41.206(1). The director shall hold such funds in reserve until the agency complies or the appropriation expires. [1982 c 214 § 7.]

Short title—1982 c 214: See note following RCW 43.41.200.

43.41.212 Expiration of RCW 43.41.200 through 43.41.212. RCW 43.41.200 through 43.41.212 shall expire on June 30, 1987, unless extended by law for an additional fixed period of time. [1982 c 214 § 8.]

Short title—1982 c 214: See note following RCW 43.41.200.

Chapter 43.43

WASHINGTON STATE PATROL

Sections

43.43.120	Patrol retirement system—Definitions.
43.43.140	Repealed.
43.43.142	Retirement board abolished—Transfer of powers, duties, and functions.
43.43.150	Repealed.
43.43.160	Repealed.
43.43.230	Total service credit.
43.43.250	Retirement of members.
43.43.260	Benefits.
43.43.265	Repealed.
43.43.266	Repealed.
43.43.267	Repealed.
43.43.270	Retirement allowances.

- 43.43.280 Repayment of contributions on death or termination of employment—Election to receive reduced retirement allowance at age fifty-five.
- 43.43.290 Status in case of disablement.
- 43.43.310 Benefits exempt from taxation and legal process—Exception—Deductions for group insurance premiums.
- 43.43.815 Transcript of conviction record to be furnished to employer—Request—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules.

Disturbances at state penal facilities

contingency plans—Report of failure to support: RCW 72.02.170.

development of contingency plans—Scope—Local participation: RCW 72.02.150.

utilization of outside law enforcement personnel—Scope: RCW 72.02.160.

Dog handler using police dog in line of duty—Immunity: RCW 4.24.410.

Hazardous materials incident command agency, state patrol as: RCW 70.136.030.

43.43.120 Patrol retirement system—Definitions.

As used in the following sections, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the Washington state patrol retirement system.

(2) "Retirement fund" means the Washington state patrol retirement fund.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Member" means any person included in the membership of the retirement fund.

(5) "Employee" means any commissioned employee of the Washington state patrol.

(6) "Cadet" is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(7) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(8) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(9) "Retirement board" means the board provided for in this chapter.

(10) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(11) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(12) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other

benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(13) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(14) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(15) "Average final salary" shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(16) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(17) Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

(18) "Director" means the director of the department of retirement systems.

(19) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(20) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(21) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under RCW 43.43.300. [1982 1st ex.s. c 52 § 24; 1980 c 77 § 1; 1973 1st ex.s. c 180 § 1; 1969 c 12 § 1; 1965 c 8 § 43.43.120. Prior: 1955 c 244 § 1; 1953 c 262 § 1; 1951 c 140 § 1; 1947 c 250 § 1; Rem. Supp. 1947 § 6362-81.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Construction—1969 c 12: "The provisions of this 1969 amendatory act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of this act." [1969 c 12 § 8.] "This 1969 amendatory act" consists of the 1969 c 12 amendments to RCW 43.43.120, 43.43.170, 43.43.250, 43.43.260, 43.43.270, and 43.43.280; the enactment of RCW 43.43.267; and the repeal of RCW 43.43.210.

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

43.43.142 Retirement board abolished—Transfer of powers, duties, and functions. The retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 18.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

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

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

43.43.230 Total service credit. Subject to the provisions of RCW 43.43.260, at retirement, the total service credited to a member shall consist of all the member's current service and accredited prior service. [1982 1st ex.s. c 52 § 25; 1965 c 8 § 43.43.230. Prior: 1953 c 262 § 3; 1947 c 250 § 12; Rem. Supp. 1947 § 6362–92.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

43.43.250 Retirement of members. (1) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty: *Provided*, That the requirement to retire at age sixty shall not apply to a member serving as chief of the Washington state patrol.

(2) Any member who has completed twenty–five years of credited service or has attained the age of fifty–five may apply to retire as provided in RCW 43.43.260, by completing and submitting an application form to the department, setting forth at what time the member desires to be retired. [1982 1st ex.s. c 52 § 26; 1975–'76 2nd ex.s. c 116 § 1; 1969 c 12 § 3; 1965 c 8 § 43.43.250. Prior: 1963 c 175 § 1; 1957 c 162 § 3; 1951 c 140 § 4; 1947 c 250 § 14; Rem. Supp. 1947 § 6362–94.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.260 Benefits. Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3) Any member with twenty–five years service in the Washington state patrol may have the member's service in the armed forces credited as a member whether or not the individual left the employ of the Washington state patrol to enter such armed forces: *Provided*, That in no instance shall military service in excess of five years be credited: *And provided further*, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or within five years of membership service following the member's first resumption of employment, whichever occurs first: *And provided further*, That this section shall not apply to any

individual, not a veteran within the meaning of RCW 41.06.150, as now or hereafter amended: *And provided further*, That in no instance shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code, as now or hereafter amended.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy–five percent of the member's average final salary.

(5) A yearly increase in retirement allowance which shall amount to two percent of the retirement allowance computed at the time of retirement. This yearly increase shall be added to the retirement allowance on July 1st of each calendar year.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future. [1982 1st ex.s. c 52 § 27; 1973 1st ex.s. c 180 § 3; 1971 ex.s. c 278 § 1; 1969 c 12 § 4; 1965 c 8 § 43.43.260. Prior: 1963 c 175 § 2; 1957 c 162 § 4; 1955 c 244 § 2; 1951 c 140 § 5; 1947 c 250 § 15; Rem. Supp. 1947 § 6362–95.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Effective date—1971 ex.s. c 278: "This 1971 amendatory act shall have an effective date of July 1, 1971." [1971 ex.s. c 278 § 2.]

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

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

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

43.43.270 Retirement allowances. (1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.

(2) If a member should die while in service the member's lawful spouse shall be paid an allowance which shall be equal to fifty percent of the average final salary of the member. If the member should die after retirement the member's lawful spouse shall be paid an allowance which shall be equal to the retirement allowance then payable to the member or fifty percent of the final average salary used in computing the member's retirement allowance, whichever is less. The allowance paid to the lawful spouse shall continue as long as the spouse lives or until the spouse remarries. To be eligible for an allowance the lawful surviving spouse of a retired member shall have been married to the member prior to the member's retirement and continuously thereafter until the date of the member's death or shall have been married to the retired member at least two years prior to the member's death.

(3) If a member should die, either while in service or after retirement, the member's surviving children under the age of eighteen years shall be provided for in the following manner:

Each unmarried child under eighteen years of age shall be entitled to a benefit equal to five percent of the final average salary of the member or retired member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member or retired member.

(4) If a member should die in the line of duty while employed by the Washington state patrol, the member's surviving children under the age of twenty years and eleven months if attending any high school, college, university, or vocational or other educational institution accredited or approved by the state of Washington shall hereafter be entitled to a benefit equal to five percent of the final average salary of the member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member: *Provided*, That if a beneficiary under this section shall reach the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of said term.

(5) The provisions of this section shall apply to members who have been retired on disability as provided in RCW 43.43.040 if the officer was a member of the Washington state patrol retirement system at the time of such disability retirement and if all contributions paid to the retirement fund have been left in the retirement fund. In the event that contributions have been refunded to a member on disability retirement, he may regain eligibility for survivor's benefits by repaying to the retirement fund the total amount refunded to him plus two and one-half percent interest, compounded annually, covering the period during which the refund was held by him. [1982 1st ex.s. c 52 § 28; 1973 2nd ex.s. c 14 § 3; 1973 1st ex.s. c 180 § 4. Prior: 1969 c 12 § 6; 1965 c 8 § 43.43.270; prior: 1963 c 175 § 3; 1961 c 93 § 2; 1951 c 140 § 6; 1947 c 250 § 16; Rem. Supp. 1947 § 6362-96.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.280 Repayment of contributions on death or termination of employment—Election to receive reduced retirement allowance at age fifty-five. (1) If a member dies before retirement, and has no surviving spouse or children under the age of eighteen years, all contributions made by the member with interest at two and one-half percent compounded annually shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under RCW 43.43.130 (2) and (3) and, the individual may withdraw the member's contributions to the retirement fund, with interest at two and one-half percent compounded annually, by making application therefor to the department, except that: A member who ceases to be an employee

after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: *Provided*, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply. [1982 1st ex.s. c 52 § 29; 1973 1st ex.s. c 180 § 5; 1969 c 12 § 7; 1965 c 8 § 43.43.280. Prior: 1961 c 93 § 3; 1951 c 140 § 7; 1947 c 250 § 17; Rem. Supp. 1947 § 6363-97.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.290 Status in case of disablement. A person receiving benefits under RCW 43.43.040 will be a non-active member. If any person who is or has been receiving benefits under RCW 43.43.040 returns or has returned to active duty with the Washington state patrol, the person shall become an active member of the retirement system on the first day of reemployment. The person may acquire service credit for the period of disablement by paying into the retirement fund all contributions required based on the compensation which would have been received had the person not been disabled. To acquire service credit, the person shall complete the required payment within five years of return to active service or prior to retirement, whichever occurs first. Persons who return to active service prior to July 1, 1982, shall complete the required payment within five years of July 1, 1982, or prior to retirement, whichever occurs first. No service credit for the disability period may be allowed unless full payment is made. Interest shall be charged at the rate set by the director of retirement systems from the date of return to active duty or from July 1, 1982, whichever is later, until the date of payment. The Washington state patrol shall pay into the retirement system the amount which it would have contributed had the person not been disabled. The payment shall become due and payable, in total, when the person makes the first payment. If the person fails to complete the full payment required within the time period specified, any payments made to the retirement fund under this section shall be refunded with interest and any payment by the Washington state patrol to the retirement fund for this purpose shall be refunded. [1982 1st ex.s. c 52 § 30; 1965 c 8 § 43.43.290. Prior: 1947 c 250 § 18; Rem. Supp. 1947 § 6362-98.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

43.43.310 Benefits exempt from taxation and legal process—Exception—Deductions for group insurance premiums. (1) The right of any person to a retirement allowance or optional retirement allowance under

the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Benefits under this chapter shall be payable to a spouse or ex-spouse to the extent expressly provided for in any court decree of dissolution or legal separation or in any court order or court-approved property settlement agreement incident to any court decree of dissolution or legal separation.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington. [1982 1st ex.s. c 52 § 31; 1979 ex.s. c 205 § 8; 1977 ex.s. c 256 § 1; 1965 c 8 § 43.43-.310. Prior: 1951 c 140 § 8; 1947 c 250 § 20; Rem. Supp. 1947 § 6362-100.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Payment of retirement benefits pursuant to court decree or order of dissolution or legal separation—Application of act; effect of death of recipient; payment sufficient answer to claim of beneficiary against department: RCW 41.04.310-41.04.330.

43.43.815 Transcript of conviction record to be furnished to employer—Request—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules. (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a transcript of the conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written request of any employer for the purpose of:

- (a) Securing a bond required for any employment;
- (b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or
- (c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

(2) When an employer has received a conviction record under subsection (1) of this section, the employer shall notify the subject of the record of such receipt within thirty days after receipt of the record, or upon completion of an investigation under subsection (1)(c) of this section. The employer shall make the record available for examination by its subject and shall notify the subject of such availability.

(3) The Washington state patrol shall charge fees for disseminating records pursuant to this section which will

cover, as nearly as practicable, the direct and indirect costs to the Washington state patrol of disseminating such records.

(4) Information disseminated pursuant to this section or RCW 43.43.760 shall be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated and shall be used only as necessary for those purposes enumerated in subsection (1) of this section.

(5) Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this section, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this section, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action is entitled to recover from the defendant the amount of the actual damages, if any, sustained by him if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of chapter 10.97 RCW.

(6) Neither the section, its employees, nor any other agency or employee of the state is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information pursuant to this section or RCW 43.43.760.

(7) The Washington state patrol may adopt rules and forms to implement this section and to provide for security and privacy of information disseminated pursuant hereto, giving first priority to the criminal justice requirements of chapter 43.43 RCW. Such rules may include requirements for users, audits of users, and other procedures to prevent use of criminal history record information inconsistent with this section.

(8) Nothing in this section shall authorize an employer to make an inquiry not otherwise authorized by law, or be construed to affect the policy of the state declared in RCW 9.96A.010, encouraging the employment of ex-offenders. [1982 c 202 § 1.]

Chapter 43.51

PARKS AND RECREATION COMMISSION

Sections	
43.51.130	Permits for improvement of parks—Limitations.
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43.51.290	Winter recreational facilities—Establishment, permits, snow removal, maps.
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- 43.51.310 Winter recreational program account—Deposit of parking permit fees—Use—Winter recreation programs by public and private agencies.
- 43.51.320 Winter recreational parking areas—Restriction of overnight parking.
- 43.51.330 Winter recreational parking areas—Rules.
- 43.51.340 Winter recreation advisory committee—Members—Qualifications—Terms—Travel expenses—Meetings—Chairman—Secretary—Expiration.
- 43.51.520 Repealed.
- 43.51.540 Compensation—Quarters—Hospital services, etc.

43.51.130 Permits for improvement of parks—
Limitations. The state parks and recreation commission may grant permits to individuals, groups, churches, charities, organizations, agencies, clubs, or associations to improve any state park or parkway, or any lands belonging to the state and withdrawn from sale under the provisions of this chapter. Any expenses borne by the state shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, minimal use of natural resources contained within such public lands, paint, incidental materials, and equipment used to assist volunteers. These improvements shall not interfere with access to or use of such public lands or facilities by the general public and shall benefit the public in terms of safety, recreation, aesthetics, or wildlife or natural area preservation. These improvements on public lands and facilities shall be for the use of all members of the general public. [1982 c 156 § 1; 1965 c 8 § 43.51.130. Prior: 1929 c 83 § 1; RRS § 10946–1.]

43.51.140 Application for permit. Any such individual, group, organization, agency, club, or association desiring to obtain such permit shall make application therefor in writing to the commission, describing the lands proposed to be improved and stating the nature of the proposed improvement. Prior to granting a permit, the commission shall determine that the applicants are persons of good standing in the community in which they reside. [1982 c 156 § 2; 1965 c 8 § 43.51.140. Prior: 1929 c 83 § 2; RRS § 10946–2.]

43.51.150 Plans and specifications. If the state parks and recreation commission determines that the proposed improvement will substantially alter a park, parkway, or park land, it shall require the applicant to submit detailed plans and specifications of the proposed improvement, which, as submitted, or as modified by the state parks and recreation commission, shall be incorporated in the permit when granted. [1982 c 156 § 3; 1965 c 8 § 43.51.150. Prior: 1929 c 83 § 3; RRS § 10946–3.]

43.51.160 Surety bond. If the commission determines it necessary, the applicant shall execute and file with the secretary of state a bond payable to the state, in such penal sum as the commission shall require, with good and sufficient sureties to be approved by the commission, conditioned that the grantee of the permit will make the improvement in accordance with the plans and specifications contained in the permit, and, in case the improvement is made upon lands withdrawn from sale

under the provisions of RCW 43.51.100, will pay into the state treasury to the credit of the fund to which the proceeds of the sale of such lands would belong, the appraised value of all merchantable timber and material on the land, destroyed, or used in making such improvement. [1982 c 156 § 4; 1965 c 8 § 43.51.160. Prior: 1929 c 83 § 4; RRS § 10946–4.]

43.51.290 Winter recreational facilities—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 facilities for winter recreational activities on lands administered or acquired by the commission or as authorized on lands administered by other public agencies or private landowners 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, adjacent trails, and areas and facilities 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. [1982 c 11 § 1; 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.]

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 determined by the commission after consultation with the winter recreation advisory committee: *Provided, however,* That such fee may not exceed ten dollars annually. If the person making application therefor is also the owner of a snowmobile registered pursuant to chapter 46.10 RCW, 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. [1982 c 11 § 2; 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 program account—Deposit of parking permit fees—Use—Winter recreation programs by public and private agencies. There is hereby created the winter recreational program account in the general fund. Special winter recreational area parking permit fees collected under this chapter shall be remitted to the state treasurer to be deposited in the

winter recreational program account and shall be appropriated only to the commission for nonsnowmobile winter recreation purposes including the administration, acquisition, development, operation, planning, and maintenance of winter recreation facilities and the development and implementation of winter recreation, safety, enforcement, and education programs. The commission may accept gifts, grants, donations, or moneys from any source for deposit in the winter recreational program account.

Any public agency in this state may develop and implement winter recreation programs. The commission may make grants to public agencies and contract with any public or private agency or person to develop and implement winter recreation programs. [1982 c 11 § 3; 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, after consultation with the winter recreation advisory committee, 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. [1982 c 11 § 4; 1975 1st ex.s. c 209 § 4.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

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 winter recreation advisory committee. [1982 c 11 § 5; 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—Members—Qualifications—Terms—Travel expenses—Meetings—Chairman—Secretary—Expiration. (1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

(c) One representative of the department of natural resources, one representative of the department of game,

and one representative of the Washington state association of counties, each of whom shall be appointed by the director of the particular department or association.

(3) The terms of the members appointed under subsection (2) (a) and (b) of this section shall begin on July 1 of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of the unexpired term: *Provided*, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee appointed under subsection (2) (a) and (b) of this section shall be reimbursed from the winter recreational program account created by RCW 43.51.310 for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

(5) The committee shall meet at times and places it determines not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. The chairman of the committee shall be chosen under rules adopted by the committee. The committee shall adopt any other rules necessary to govern its proceedings.

(6) The director of parks and recreation or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(7) The winter recreation advisory committee and its powers and duties shall terminate on June 30, 1986. [1982 c 11 § 6; 1975 1st ex.s. c 209 § 8.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

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

43.51.540 Compensation—Quarters—Hospital services, etc. (1) The minimum compensation shall be at the rate of twenty-five dollars per week, except that up to the minimum state wage 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. [1982 c 70 § 1; 1975 c 7 § 2; 1965 c 8 § 43.51-.540. Prior: 1961 c 215 § 5.]

Chapter 43.52

OPERATING AGENCIES

Sections	Definitions.
43.52.250	Members of the board of directors of an operating
43.52.290	agency—Compensation—May hold other public
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- 43.52.370 Operating agency board of directors—Members, appointment, vote, term, etc.—Rules—Proceedings—Limitation on powers and duties.
- 43.52.373 Executive committee—Composition, powers and duties, terms.
- 43.52.374 Operating agency executive board—Members—Terms—Removal—Rules—Proceedings—Managing director—Civil immunities—Defense and indemnification.
- 43.52.375 Treasurer—Auditor—Powers and duties—Official bonds—Funds.
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- 43.52.600 Purchase of materials, equipment, or supplies by telephone or written quotation—Limitation—Procedure—Public inspection—Waiver of deposit or bid bond.
- 43.52.603 Emergency purchase of materials, equipment, supplies, or work by contract.
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- 43.52.609 Procedure for execution of contract when impracticable to draft bid invitation.
- 43.52.612 Contract bid form.
- 43.52.615 Procedure for execution of contract for work on defaulted, terminated, or consolidated contracts.
- 43.52.618 Sealed bids for contracts required—Exceptions—Certification.
- 43.52.621 Expiration of RCW 43.52.600 through 43.52.618.

43.52.250 Definitions. As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Board of directors" means the board established under RCW 43.52.370.

"Executive board" means the board established under RCW 43.52.374.

"Board" means the board of directors of the joint operating agency unless the operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, in which case "board" means the executive board.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

"Revenue bonds or warrants" means bonds, notes, bond anticipation notes, warrants, certificates of indebtedness, commercial paper, refunding or renewal obligations, payable from a special fund or revenues of the utility properties operated by the joint operating agency. [1982 1st ex.s. c 43 § 1; 1981 1st ex.s. c 1 § 1; 1977 ex.s. c 184 § 1; 1965 c 8 § 43.52.250. Prior: 1953 c 281 § 1.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

Severability—1981 1st ex.s. c 1: "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." [1981 1st ex.s. c 1 § 5.]

43.52.290 Members of the board of directors of an operating agency—Compensation—May hold other public position—Incompatibility of offices doctrine voided. Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day for each day or major part thereof devoted to the business of the operating agency, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he be such other public officer or employee, he shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. The common law doctrine of incompatibility of offices is hereby voided as it applies to persons sitting on the board of directors or the executive board of an operating agency and holding an elective or appointive position on a public utility district commission or municipal legislative authority or being an employee of a public utility district or municipality. [1982 1st ex.s. c 43 § 5; 1977 ex.s. c 184 § 3; 1965 c 8 § 43.52.290. Prior: 1953 c 281 § 4.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.370 Operating agency board of directors—Members, appointment, vote, term, etc.—Rules—Proceedings—Limitation on powers and duties. (1) Except as provided in subsection (2) of this section, the management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure

of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: *Provided*, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: *Provided*, That the per diem compensation to any member shall not exceed five thousand dollars in any year except for board members who are elected to serve on an executive board established under RCW 43.52.374, in which case per diem compensation to any member shall not exceed ten thousand dollars in any year.

(2) If an operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors shall include and are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, terminate, or decommission any power plants, works, and facilities except that once the board of directors has made a final decision regarding a nuclear power plant, the executive board established under RCW 43.52.374 shall have the authority to make all subsequent decisions regarding the plant and any of its components;

(b) Election of members to and removal from the executive board under RCW 43.52.374(1)(a); and

(c) Selection and appointment of three outside directors as provided in RCW 43.52.374(1)(b).

All other powers and duties of the operating agency, including without limitation authority for all actions subsequent to final decisions by the board of directors, including but not limited to the authority to sell any power plant, works, and facilities are vested in the executive board established under RCW 43.52.374. [1982 1st ex.s. c 43 § 2; 1981 1st ex.s. c 3 § 1; 1977 ex.s. c 184 § 7; 1965 c 8 § 43.52.370. Prior: 1957 c 295 § 2; 1953 c 281 § 13.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.373 Executive committee—Composition, powers and duties, terms. The board of directors of an operating agency by rule may create an executive committee to be composed of not less than three nor more than seven members of the board of directors. The board of directors may provide by rule for the composition of the executive committee so as to afford, in its judgment,

fair representation to the member public utility districts and cities. The executive committee shall administer the business of the board of directors during intervals between its meetings in accordance with its rules, motions or resolutions. The executive committee shall have authority to acquire or construct only such properties as may be provided for by motion or resolution of the board of directors. The terms of office of the members of the executive committee and the method of filling vacancies therein shall be fixed by the rules of the board of directors of the operating agency. [1982 1st ex.s. c 43 § 6; 1965 c 8 § 43.52.373. Prior: 1957 c 295 § 3.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.374 Operating agency executive board—Members—Terms—Removal—Rules—Proceedings—Managing director—Civil immunities—Defense and indemnification. (1) With the exception of the powers and duties of the board of directors described in RCW 43.52.370(2), the management and control of an operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW is vested in an executive board established under this subsection and consisting of eleven members.

(a) Five members of the executive board shall be elected to four-year terms by the board of directors from among the members of the board of directors. The board of directors may provide by rule for the composition of the five members of the executive board elected from among the members of the board of directors so as to reflect the member public utility districts' and cities' participation in the joint operating agency's projects. The board of directors may also provide by rule for the removal of a member of the executive board, except for the outside directors. Members of the board of directors may be elected to serve successive terms on the executive board.

(b) Six members of the executive board shall be outside directors. Three shall be selected and appointed by the board of directors, and three shall be selected and appointed by the governor and confirmed by the senate. All outside directors shall:

(i) Serve four-year terms on the executive board. However, of the initial members of the executive board, the board of directors and the governor shall each appoint one outside director to serve a two-year term, one outside director to serve a three-year term, and one outside director to serve a four-year term. Thereafter, all outside directors shall be appointed for four-year terms. All outside directors are eligible for reappointment;

(ii) Receive per diem compensation and travel expenses on the same basis as the five members elected from the board of directors. The outside directors shall also receive a salary from the operating agency as fixed by the governor;

(iii) Not be an officer or employee of, or in any way affiliated with, the Bonneville power administration or

any electric utility conducting business in the states of Washington, Oregon, Idaho, or Montana;

(iv) Not be involved in the financial affairs of the operating agency as an underwriter or financial adviser of the operating agency or any of its members or any of the participants in any of the operating agency's plants; and

(v) Be representative of policy makers in business, finance, or science, or have expertise in the construction or management of such facilities as the operating agency is constructing or operating, or have expertise in the termination, disposition, or liquidation of corporate assets.

(c) The governor may remove outside directors from the executive board for incompetency, misconduct, or malfeasance in office in the same manner as state appointive officers under chapter 43.06 RCW. For purposes of this subsection, misconduct shall include, but not be limited to, nonfeasance and misfeasance.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state. Nothing in this chapter alters or destroys the status of an operating agency as a separate municipal corporation or makes the state liable in any way or to any extent for any preexisting or future debt of the operating agency or any present or future claim against the agency.

(3) The eleven members of the executive board shall be selected with the objective of establishing an executive board which has the resources to effectively carry out its responsibilities. All members of the executive board shall conduct their business in a manner which in their judgment is in the interest of all ratepayers affected by the joint operating agency and its projects.

(4) The executive board shall elect from its members a chairman, vice chairman, and secretary, who shall serve at the pleasure of the executive board. The executive board shall adopt rules for the conduct of its meetings and the carrying out of its business. All proceedings shall be by motion or resolution and shall be recorded in the minute book, which shall be a public record. A majority of the executive board shall constitute a quorum for the transaction of business.

(5) With respect to any operating agency existing on April 20, 1982, to which the provisions of this section are applicable:

(a) The board of directors shall elect five members to the executive board no later than sixty days after April 20, 1982; and

(b) The board of directors and the governor shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than sixty days after April 20, 1982, and the powers and duties prescribed in this chapter shall devolve upon the executive board at that time.

(6) The executive board shall select and employ a managing director of the operating agency and may delegate to the managing director such authority for the management and control of the operating agency as the executive board deems appropriate. The managing director's employment is terminable at the will of the executive board.

(7) Members of the executive board shall be immune from civil liability for mistakes and errors of judgment in the good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion. This grant of immunity shall not be construed as modifying the liability of the operating agency.

The operating agency shall undertake the defense of and indemnify each executive board member made a party to any civil proceeding including any threatened, pending, or completed action, suit, or proceeding, whether civil, administrative, or investigative, by reason of the fact he or she is or was a member of the executive board, against judgments, penalties, fines, settlements, and reasonable expenses, actually incurred by him or her in connection with such proceeding if he or she had conducted himself or herself in good faith and reasonably believed his or her conduct to be in the best interest of the operating agency.

In addition members of the executive board who are utility employees shall not be fired, forced to resign, or demoted from their utility jobs for decisions they make while carrying out their duties as members of the executive board involving the exercise of judgment and discretion. [1982 1st ex.s. c 43 § 3; 1981 1st ex.s. c 3 § 2.]

Severability—1982 1st ex.s. c 43: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 43 § 11.]

Savings—1982 1st ex.s. c 43: "(1) All personnel and employees of a board of directors or executive board or committee displaced by *section 3 of this act shall become personnel and employees of the executive board created in *section 3 of this act without any loss of rights, subject to any appropriate action thereafter.

(2) All pending business before a board of directors or executive board or committee which is replaced by the executive board created in *section 3 of this act shall be continued and acted upon by the new executive board.

(3) **This act shall not be construed to alter:

(a) Any existing rights acquired under laws relating to operating agencies;

(b) The status of any actions, activities, or civil or criminal proceedings of any existing operating agencies;

(c) The status of any collective bargaining agreements, indebtedness, contracts, or other obligations;

(d) Any valid resolutions, covenants, or agreements between an operating agency and members, participants in any electric generating facility, privately owned public utilities, or agencies of the federal government; or

(e) Any rules, resolutions, or orders adopted by a board of directors or executive board or committee until canceled or superseded." [1982 1st ex.s. c 43 § 4.]

Reviser's note: *(1) "Section 3 of this act" is the 1982 1st ex.s. c 43 amendment to RCW 43.52.374.

** (2) "This act" consists of the 1982 1st ex.s. c 43 amendments to RCW 43.52.250, 43.52.290, 43.52.370, 43.52.373, 43.52.374, 43.52.375, 43.52.378, and 42.30.020 and of the enactment of RCW 43.52.385 and the above-quoted sections.

43.52.375 Treasurer—Auditor—Powers and duties—Official bonds—Funds. The board of each joint operating agency shall by resolution appoint a treasurer. The treasurer shall be the chief financial officer of the operating agency, who shall report at least annually to the board a detailed statement of the financial condition of the operating agency and of its financial operations for the preceding fiscal year. The treasurer shall advise the board on all matters affecting

the financial condition of the operating agency. Before entering upon his duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his duties. The amount of such bond may be decreased or increased from time to time as the board may by resolution direct.

The board shall also appoint an auditor and may require him to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his duties. The auditor shall report directly to the board and be responsible to it for discharging his duties.

The premiums on the bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by him only on warrants issued by the auditor upon orders or vouchers approved by the board: *Provided*, That the board by resolution may authorize the managing director or any other bonded officer or employee as legally permissible to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business, including expenses incurred by the board of directors, its executive committee, or the executive board in the performance of their duties. All moneys of the operating agency shall be deposited forthwith by the treasurer in such depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he shall place all money of the joint operating agency as the board by resolution or motion may direct. [1982 1st ex.s. c 43 § 7; 1981 1st ex.s. c 3 § 3; 1965 c 8 § 43.52.375. Prior: 1957 c 295 § 4.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.378 Executive board—Appointment of administrative auditor—Retention of firm for performance audits—Duties of auditor and firm—Reports. The executive board of any operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The executive board shall retain a qualified firm or firms to conduct performance audits

which is in fact independent and does not have any interest, direct or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the executive board of the operating agency. The executive board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract amendments, project design and any other topics deemed desirable by the executive board. The executive board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the executive board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the executive board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive board shall prescribe to accomplish the purposes of this section.

In addition to the powers and duties conferred by chapter 44.28 RCW, the legislative budget committee shall evaluate such management audits as to adequacy and effectiveness of procedure and shall consult with and make reports and recommendations to the executive board. The operating agency shall reimburse the legislative budget committee for all costs of furnishing such services.

The operating agency shall file a copy of each firm's reports, and the legislative budget committee shall file a copy of each of its reports or recommendations in a timely manner, prepared in accordance with this section, with the respective chairmen of the senate and house energy and utilities committees. Upon the concurrent request of the chairmen of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis. [1982 1st ex.s. c 43 § 8; 1981 1st ex.s. c 3 § 4; 1979 ex.s. c 220 § 1.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.385 Best interest of ratepayers to determine interest of agency. For the purposes of this chapter, including but not limited to RCW 43.52.343, the best interests of all ratepayers affected by the joint operating agency and its projects shall determine the interest of

the operating agency and its board. [1982 1st ex.s. c 43 § 9.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.391 Powers and duties of operating agency. Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create subdistricts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal 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 coal that it deems proper.

Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues or from any other funds of the agency, together with interest not to exceed the maximum specified in RCW 43.52.395(1). The legislative body of any member may authorize and make such advances or contributions to an operating agency to assist in a plan for termination of a project or projects, whether or not such member is a participant in such project or projects. Any member who makes such advances or contributions for terminating a project or projects in which it is not a participant shall not assume any

liability for any debts or obligations related to the terminated project or projects on account of such advance or contribution. [1982 c 1 § 1; 1977 ex.s. c 184 § 8; 1965 c 8 § 43.52.391. Prior: 1957 c 295 § 5.]

Severability—1982 c 1: "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." [1982 c 1 § 3.]

Liability to other taxing districts for increased financial burdens: Chapter 54.36 RCW.

43.52.395 Maximum interest rate operating agency may pay member. (1) The maximum rate at which an operating agency shall add interest in repaying a member under RCW 43.52.391, as now or hereafter amended, may not exceed the higher of fifteen percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Federal Reserve Bank of San Francisco) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month.

(2) The maximum rate specified in subsection (1) of this section is applicable to all advances and contributions made by each member to the agency prior to January 21, 1982, and to all renewals of such advances and contributions. [1982 c 1 § 2.]

Severability—1982 c 1: See note following RCW 43.52.391.

43.52.600 Purchase of materials, equipment, or supplies by telephone or written quotation—Limitation—Procedure—Public inspection—Waiver of deposit or bid bond. For the awarding of a contract to purchase any item or items of materials, equipment, or supplies in an amount exceeding five thousand dollars but less than seventy-five thousand dollars, exclusive of sales tax, a joint operating agency may, in lieu of sealed bids, authorize by operating agency resolution a procedure for securing telephone and/or written quotations from at least five vendors, where practical, and for awarding contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. The procedure shall establish a procurement roster, which shall consist of suppliers and manufacturers who may supply materials or equipment to the operating agency, and shall provide for solicitations which will equitably distribute opportunity for bids among suppliers and manufacturers on the roster. Immediately after the award is made, the bid quotations obtained shall be recorded and shall be posted or otherwise made available for public inspection and copying pursuant to chapter 42.17 RCW at the office of the operating agency or any other officially designated location. Waiver of the deposit or bid bond required for sealed bids may be authorized by the operating agency in securing the bid quotations. [1982 1st ex.s. c 44 § 1.]

Expiration—Severability—1982 1st ex.s. c 44: See RCW 43.52.621 and note following.

43.52.603 Emergency purchase of materials, equipment, supplies, or work by contract. When a joint operating agency constructing or operating a nuclear generating project and associated facilities determines in writing that an emergency endangers the public safety or threatens property damage or that serious financial injury would result if materials, supplies, equipment, or work are not obtained by a certain time, and they cannot be contracted for by that time by means of sealed bids, the operating agency may, in lieu of sealed bids, purchase materials, equipment, or supplies or order work by contract in any amount necessary, after having taken precaution to secure a responsive proposal at the lowest price practicable under the circumstances: *Provided*, That for the purposes of this section the term "serious financial injury" shall mean that the costs attributable to the delay caused by contracting by sealed bids exceed the cost of materials, supplies, equipment or work to be obtained. [1982 1st ex.s. c 44 § 2.]

Expiration—Severability—1982 1st ex.s. c 44: See RCW 43.52.621 and note following.

43.52.606 Purchase of materials, equipment, or supplies without competition. When a joint operating agency constructing or operating a nuclear generating project and associated facilities on the project site determines in writing that it is impracticable to secure competition for required materials, equipment, or supplies, it may purchase the materials, equipment, or supplies without competition. The term "impracticable to secure competition" shall include:

(1) When property or services can be obtained from only one person or firm (single source of supply).

(2) When competition is precluded because of the existence of patent rights, copyrights, or secret processes.

(3) When parts or components being procured as replacement parts in support of equipment specially designed by the manufacturer and where data available is not adequate to assure that the part or component will perform the same function in the equipment as the part or component it is to replace. [1982 1st ex.s. c 44 § 3.]

Expiration—Severability—1982 1st ex.s. c 44: See RCW 43.52.621 and note following.

43.52.609 Procedure for execution of contract when impracticable to draft bid invitation. When a joint operating agency constructing or operating a nuclear generating project determines in writing that it is impracticable to draft an invitation for bids with definitive specifications or any other adequately detailed description of required materials, equipment, or supplies sufficient to determine whether a competitive sealed bid is responsive, execution of a contract shall follow the procedure required in this section.

(1) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met, and responses shall describe professional competence of the offeror, the technical merits of the offer, and the price.

(2) The request for proposals shall be sent to all bidders prequalified under RCW 43.52.612 and shall be

given adequate public notice in the same manner as for sealed bids under RCW 54.04.070.

(3) As provided in the request for proposals, the operating agency shall specify at a preproposal conference the contract requirements in the request for proposal, which may include but are not limited to: Schedule, managerial and staffing requirements, productivity and production levels, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(4) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(5) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(6) The operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the operating agency taking into consideration the requirements set forth in the request for proposals. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(7) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost: *Provided*, That if it is cost-reimbursable, it shall meet the requirements of RCW 43.52.505. [1982 1st ex.s. c 44 § 4.]

Expiration—Severability—1982 1st ex.s. c 44: See RCW 43.52.621 and note following.

43.52.612 Contract bid form. A joint operating agency shall require that bids upon any construction or improvement of any nuclear generating project and associated facilities shall be made upon the contract bid form supplied by the operating agency, and in no other manner. The operating agency may, before furnishing any person, firm, or corporation desiring to bid upon any work with a contract bid form, require from the person, firm, or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of the person, firm, or corporation in performing work. The questionnaire shall be sworn to before a notary public or other person authorized to take

acknowledgement of deeds and shall be submitted once a year or at such other times as the operating agency may require. Whenever the operating agency is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement or whenever the operating agency determines that the person, firm, or corporation does not meet all of the requirements set forth in this section, it may refuse to furnish the person, firm, or corporation with a contract bid form and any bid of the person, firm, or corporation must be disregarded. The operating agency shall require that a person, firm, or corporation have all of the following requirements in order to obtain a contract form:

(1) Adequate financial resources, the ability to secure these resources, or the capability to secure a one hundred percent payment and performance bond;

(2) The necessary experience, organization, and technical qualifications to perform the proposed contract;

(3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;

(4) A satisfactory record of performance, integrity, judgment, and skills; and

(5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The refusal shall be conclusive unless appealed to the superior court of the county where the operating agency is situated or Thurston county within fifteen days, which appeal shall be heard summarily within ten days after the appeal is made and on five days' notice thereof to the operating agency.

The prevailing party in such litigation shall be awarded its attorney fees and costs.

The operating agency shall not be required to make available for public inspection or copying under chapter 42.17 RCW financial information provided under this section. [1982 1st ex.s. c 44 § 5.]

Expiration—Severability—1982 1st ex.s. c 44: See RCW 43.52.621 and note following.

43.52.615 Procedure for execution of contract for work on defaulted, terminated, or consolidated contracts.

(1) In lieu of sealed bids in constructing or operating a nuclear generating project and associated facilities, a joint operating agency may solicit quotations and execute a contract for work under this section for a defaulted contract or for a contract terminated in whole or in part, or to consolidate work under several contracts into one contract: *Provided*, That the operating agency shall determine in writing that execution of a contract under this section is less costly to the project than sealed bids, or will substantially expedite completion of the project.

(2) The operating agency shall specify at a prequotation conference the contract requirements in the solicitation, which may include but are not limited to: Schedule, managerial and staffing requirements, productivity and production levels, approved project quality assurance procedures, and time and place for submission of quotations. The solicitation shall be sent to all bidders prequalified for the work under RCW 43.52.612. The

operating agency may issue such solicitation and shall conduct a prequotation conference prior to default or termination of contract(s) to be replaced, to the extent necessary to accomplish orderly transition of work assignments. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors.

During the prequotation conference, the operating agency shall define in writing the roles, responsibilities, and obligations of persons under the contract and all persons under defaulted, terminated, or consolidated contracts.

(3) After quotations are received by the operating agency, invitations shall be sent to all responsible offerors who submit quotations to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the requirements of the operating agency. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of quotations, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from quotations submitted by competing offerors.

(4) The operating agency shall execute a contract with the responsible offeror whose quotation is determined in writing to be the most advantageous to the operating agency. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(5) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost: *Provided*, That if it is cost-reimbursable, it shall meet the requirements of RCW 43.52.505.

(6) In accordance with the contract terms, the operating agency shall give any defaulted or terminated contractor notice and pay the contractor for work performed and termination costs. [1982 1st ex.s. c 44 § 6.]

Expiration—Severability—1982 1st ex.s. c 44: See RCW 43.52.621 and note following.

43.52.618 Sealed bids for contracts required—Exceptions—Certification.

(1) Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment or supplies, the estimated cost of which is in excess of five thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts.

(2) When a joint operating agency chooses to use one or more of the exceptions to sealed bid contracting specified in this chapter, the agency shall certify to the senate and house committees on energy and utilities and the legislative budget committee in writing within thirty

days after the contract is signed, that such contract is in the public interest, state the reason or reasons why, and indicate the estimated cost savings or schedule improvement to the project compared to contracting for the same material, supplies, equipment or work through completion of work as contracted, including termination costs, or through sealed bids. [1982 1st ex.s. c 44 § 7.]

Expiration—Severability—1982 1st ex.s. c 44: See RCW 43.52.621 and note following.

43.52.621 Expiration of RCW 43.52.600 through 43.52.618. RCW 43.52.600 through 43.52.618 shall expire on December 31, 1987, or on the date that construction is completed on those nuclear generating projects which are under construction by any joint operating agency on January 1, 1982, whichever is sooner. [1982 1st ex.s. c 44 § 8.]

Severability—1982 1st ex.s. c 44: "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." [1982 1st ex.s. c 44 § 10.]

Chapter 43.59

TRAFFIC SAFETY COMMISSION

Sections

43.59.030 Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence.

43.59.030 Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence. The governor shall be assisted in his duties and responsibilities by the Washington state traffic safety commission. The Washington traffic safety commission shall be composed of the governor as chairman, the superintendent of public instruction, the director of licensing, the secretary of transportation, the chief of the state patrol, the secretary of social and health services, a representative of the association of Washington cities to be appointed by the governor, a member of the association of counties to be appointed by the governor, and a representative of the judiciary to be appointed by the governor. Appointments to any vacancies among appointee members shall be as in the case of original appointment.

The governor may designate an employee of the governor's office to act on behalf of the governor during the absence of the governor at one or more of the meetings of the commission. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member to preside during the governor's absence. [1982 c 30 § 1; 1979 c 158 § 105; 1971 ex.s. c 85 § 7; 1969 ex.s. c 105 § 1; 1967 ex.s. c 147 § 3.]

Sunset Act application: See note following chapter digest.

Chapter 43.60A

DEPARTMENT OF VETERANS AFFAIRS

Sections

43.60A.081 Expiration of state veterans affairs advisory committee—June 30, 1988.

Reviser's note—Sunset Act application: The department of veterans affairs is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.245. RCW 43.60A.010, 43.60A.020, 43.60A.030, 43.60A.040, 43.60A.050, 43.60A.060, and 43.60A.070 are scheduled for future repeal under RCW 43.131.246.

43.60A.081 Expiration of state veterans affairs advisory committee—June 30, 1988. The state veterans affairs advisory committee and its duties shall cease to exist on June 30, 1988, unless extended by law for an additional fixed period of time. [1982 c 223 § 13; 1977 ex.s. c 285 § 2.]

Sunset Act application: See note following RCW 43.60A.080.

Chapter 43.78

PUBLIC PRINTER—PUBLIC PRINTING

Sections

43.78.030 Duties—Exceptions.
43.78.110 Printer may farm out printing.

43.78.030 Duties—Exceptions. The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities: *Provided*, That this section shall not apply to the printing of the supreme court, and the court of appeals reports: *Provided further*, That where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer: *And provided further*, That except under RCW 43.19.532, any printing and binding of whatever description as may be needed by any institution of higher learning, institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed two hundred dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of said agency so ordering, the saving in time and processing justifies the award to such local private printing concern. [1982 c 164 § 2; 1971 c 81 § 114; 1965 c 8 § 43.78.030. Prior: 1959 c 88]

§ 1; 1917 c 129 § 1; 1915 c 27 § 2; 1905 c 168 § 3; RRS § 10325.]

*Commission on supreme court reports, member: RCW 2.32.160.
Session laws, legislative journals, delivery to law librarian: RCW 40.04.030.*

43.78.110 Printer may farm out printing. Whenever in the judgment of the public printer certain printing, ruling, binding, or supplies can be secured from private sources more economically than by doing the work or preparing the supplies in the state printing plant, he may obtain such work or supplies from such private sources. The public printer shall notify day training centers, group training homes, and sheltered workshops providing printing and related trade services under RCW 43.19.532 of the opportunity to bid on the provision of such work or supplies under this section.

In event any work or supplies are secured on behalf of the state under this section the state printing plant shall be entitled to add up to five percent to the cost thereof to cover the handling of the orders which shall be added to the bills and charged to the respective authorities ordering the work or supplies. [1982 c 164 § 3; 1969 c 79 § 1; 1965 c 8 § 43.78.110. Prior: 1935 c 130 § 3; RRS § 10333-1.]

Chapter 43.79 STATE FUNDS

Sections
43.79.350 Suspense account.
43.79.370 Suspense account—Disbursements—Vouchers—Warrants.

*General fund
dispensing opticians licensing act fees to go into: RCW 18.34.130.
opticians' account balance to go into: RCW 18.34.135.*

43.79.350 Suspense account. There is established in the state general fund a special account to be known as the suspense account. All moneys which heretofore have been deposited with the state treasurer in the state treasurer's suspense fund, and moneys hereafter received which are contingent on some future action, or which cover overpayments and are to be refunded to the sender in part or whole, and any other moneys of which the final disposition is not known, shall be transmitted to the state treasurer and deposited in the suspense account in the state general fund. [1981 2nd ex.s. c 4 § 6; 1965 c 8 § 43.79.350. Prior: 1955 c 226 § 1.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.79.370 Suspense account—Disbursements—Vouchers—Warrants. Disbursement from the suspense account (not to exceed receipts), shall be by warrant issued against the account by the state treasurer, upon a properly authenticated voucher presented by the state department or office which deposited the moneys in the account. [1981 2nd ex.s. c 4 § 7; 1965 c 8 § 43.79.370. Prior: 1955 c 226 § 3.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

Chapter 43.80 FISCAL AGENCIES

Sections
43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds.

43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds. Fiscal agencies shall be appointed for the payment of bonds and coupons issued by this state or by any subdivision thereof. The appointed fiscal agencies may be located in any major city of the country. No bonds hereafter issued by this state or by any affected subdivision thereof, shall be by their terms made payable at a specific place other than: (1) The office of the designated fiscal agencies; (2) offices of the state or local treasurers or fiscal offices of any affected subdivision; or (3) the offices of trustees if provided for in the indenture, as provided for by the terms of the bonds. As used in this chapter, bonds do not include short-term obligations.

Bonds and coupons of subdivisions may be paid at one or more of the state's fiscal agents and/or at the office of the state treasurer or offices of local treasurers as provided for in the terms of the bonds. [1982 c 216 § 1; 1969 ex.s. c 80 § 2.]

Issuance of short-term obligations by municipal corporations: Chapter 39.50 RCW.

Chapter 43.82 STATE AGENCY HOUSING

Sections
43.82.010 Acquisition and disposal of real estate—Authority to lease or sublet—Charges—Construction, alteration, repair, or improvement of real estate—Space utilization studies—Approval of attorney general—Delegation of functions—Exemptions.

43.82.010 Acquisition and disposal of real estate—Authority to lease or sublet—Charges—Construction, alteration, repair, or improvement of real estate—Space utilization studies—Approval of attorney general—Delegation of functions—Exemptions. (1) The director of the department of general administration, on behalf of the agency involved, shall purchase, lease, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section.

(3) The director is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(4) If the director determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsections (1) or (3) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: *Provided*, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(5) In order to obtain maximum utilization of space, the director shall make space utilization studies, and shall establish standards for use of space by state agencies.

(6) The director may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his management.

(7) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director or the director's designee, and recorded with the county auditor of the county in which the property is located.

(8) The director may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(9) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, the department of fisheries, the department of game, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes. [1982 c 41 § 1; 1969 c 121 § 1; 1967 c 229 § 1; 1965 c 8 § 43.82.010. Prior: 1961 c 184 § 1; 1959 c 255 § 1.]

Effective dates—1982 c 41: "This act shall take effect July 1, 1982, with the exception of section 2 of this act, which shall take effect July 1, 1983." [1982 c 41 § 3.] "This act" consists of the 1982 c 41 amendments to RCW 43.82.010 and 43.19.500 and of the above-quoted section. "Section 2 of this act" is the 1982 c 41 amendment to RCW 43.19.500.

East capitol site, acquisition and development: RCW 79.24.500–79.24.530.

Housing costs for state offices and departments: RCW 43.01.090.

Public works: Chapter 39.04 RCW.

Use of department of general administration facilities and services revolving fund in acquiring real estate: RCW 43.19.500.

Chapter 43.83

CAPITAL IMPROVEMENTS

Sections

43.83.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.

43.83.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twelve million one hundred thirty thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83.172 through 43.83.182 may be offered for sale without prior legislative appropriation. [1982 1st ex.s. c 48 § 19; 1981 c 235 § 1.]

Severability—1982 1st ex.s. c 48: See note following RCW 28C.51.010.

Chapter 43.83H

SOCIAL AND HEALTH SERVICES FACILITIES— BOND ISSUES

Sections

43.83H.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise.

43.83H.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services and department of corrections facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred forty-seven million two hundred eighty thousand dollars, or so much

thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.172 through 43.83H.182 may be offered for sale without prior legislative appropriation.

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. [1982 1st ex.s. c 23 § 3; 1981 c 234 § 1.]

Chapter 43.84

INVESTMENTS AND INTERFUND LOANS

Sections

43.84.080 Investment of current state funds.

43.84.080 Investment of current state funds. Whenever 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 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:

(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 treasurer 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 state treasurer and the department of transportation 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;

(5) Bankers' acceptances purchased on the secondary market;

(6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: *Provided*, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;

(7) Commercial paper: *Provided*, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board. [1982 c 148 § 1;

1981 c 3 § 18; 1979 ex.s. c 154 § 1; 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.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1961 c 281: See note following RCW 47.12.180.

Motor vehicle fund warrants for state highway acquisition: RCW 47.12.180-47.12.240.

Chapter 43.85

STATE DEPOSITARIES

Sections

43.85.130 Deposit of commissioner of public lands and department of natural resources funds—Natural resources deposit fund—Repayments.

43.85.140 Repealed.

43.85.160 Repealed.

43.85.180 Repealed.

43.85.130 Deposit of commissioner of public lands and department of natural resources funds—Natural resources deposit fund—Repayments. (1) The department shall deposit daily all moneys and fees collected or received by the commissioner of public lands and the department of natural resources in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful bidders under RCW 79.01.132 and 79.01.204 to the state treasurer for deposit under subsection (1)(b) of this section. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.01.204;

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW 76.12.030, 76.12.120, and 79.64.040;

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under subsections (1)(a) and (1)(b) of this section the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer. [1981 2nd ex.s. c 4 § 1; 1965 c 8 § 43.85.130. Prior: (i) 1911 c 51 § 1; RRS § 5555. (ii) 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Moneys received and invested prior to December 1, 1981: "Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204, which have been invested prior to December 1, 1981, in time deposits, shall be subject to RCW 43.85.130 as each time deposit matures." [1981 2nd ex.s. c 4 § 2.]

Severability—1981 2nd ex.s. c 4: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 4 § 16.]

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

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

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

Chapter 43.86A

SURPLUS FUNDS—INVESTMENT PROGRAM

Sections

43.86A.030 Time certificate of deposit investment program—
Funds available for—Allocation.

43.86A.030 Time certificate of deposit investment program—Funds available for—Allocation. Funds held in public depositories not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds determined to be available according to this formula for the time certificate of deposit investment program shall be deposited in qualified public depositories. These deposits shall be allocated among the participating depositories on a basis to be determined by the state treasurer. The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors: *Provided*, That, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly. [1982 c 74 § 1; 1973 c 123 § 3.]

Chapter 43.88

BUDGET AND ACCOUNTING

Sections

43.88.020 Definitions.
43.88.110 Expenditure programs—Allotments—Reserves.

43.88.112 Revision of allotments for funds appropriated to the superintendent of public instruction.
43.88.113 Reduction of allotments for executive branch agencies required—Exception—Distribution of reductions—Additional powers of governor—Expiration of section.
43.88.115 Repealed.
43.88.160 Fiscal management—Powers and duties of officers and agencies.
43.88.530 Budget stabilization account—Transfers to account.
43.88.535 Budget stabilization account—Appropriation for certain purposes—Waiver of deposits.

Funds subject to council on child abuse and neglect: RCW 43.121.100.

43.88.020 Definitions. (1) "Budget" shall mean a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" shall mean a formal, written statement offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" shall mean the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" shall mean and include every state office, officer, each institution, whether educational, correctional or other, and every department, division, board and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, shall mean all moneys, including cash, checks, bills, notes, drafts, stocks and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" shall mean the policies, standards and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or his designated agent, and which shall have the force and effect of law.

(7) "Ensuuing biennium" shall mean the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose; but "dedicated fund" shall not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the legislative budget committee, the legislative evaluation and accountability program committee, the ways and means committees of the senate and house of representatives, and, where appropriate, the legislative transportation committee.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "Stabilization account" means the budget stabilization account created under RCW 43.88.525 as an account in the general fund of the state treasury.

(18) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(19) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(20) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency. [1982 1st ex.s. c 36 § 1. Prior: 1981 c 280 § 6; 1981 c 270 § 2; 1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88.020; prior: 1959 c 328 § 2.]

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Office of financial management: Chapter 43.41 RCW.

43.88.110 Expenditure programs—Allotments—Reserves. Subdivisions (1) through (4) of this section set forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds. Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(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 the governor. The statement of proposed expenditures shall show, among other things, the requested allotments of public funds for the ensuing fiscal period for the agency concerned on a monthly basis 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 director of financial management, the governor may revise or alter agency allotments; *Provided*, That revision of allotments shall not be made for agencies headed by elective officials pursuant to this subsection. The aggregate of the allotments for an appropriation shall not exceed the total appropriation.

(2) Except for the legislative and judicial branches of government, 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, the governor shall revise the allotments concerned so as to prevent the making of expenditures in excess of available revenues. To the same end, 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) Except as provided in RCW 43.88.113, for any allotment reduction necessary following adjournment sine die of the 1982 2nd ex. sess. of the legislature based upon the June 1982 office of financial management revenue forecast the governor shall be limited to a uniform percentage allotment reduction: *Provided*, That the allotments to the superintendent of public instruction for support of state-wide programs shall not be reduced. The provisions of this subsection expire on October 1, 1982.

(4) Except as provided in subsection (3) of this section, the percentage of each agency's allotment assigned to a reserve status under subsection (2) of this section and RCW 43.88.112 may vary among agencies. As a result of any official office of financial management revenue forecast on or after July 30, 1982, for any allotment reduction, the maximum percentage reduction shall not exceed five percent for any given agency's biennial appropriation: *Provided*, That the allotment reduction to the superintendent of public instruction for support of state-wide programs shall not exceed one percent of the biennial appropriation. If the percentage reduction for a particular agency is less than the maximum reduction applied to other agencies, the governor must declare an emergent need for the variance. The governor's declaration shall be based on one or more of the following reasons, and shall so state:

(a) The protection of public health and safety;

(b) The satisfaction of a constitutional requirement;

(c) The avoidance of a loss of revenue or the protection of a revenue source;

(d) The protection of basic education as provided in RCW 43.88.112.

The declaration shall be transmitted to the committees on ways and means of the senate and house of representatives twenty days prior to the effective date of the declaration. The declaration shall be considered ratified by the legislature unless changed by statute.

The provisions of this subsection expire December 31, 1982.

(5) 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. The director of financial management shall monitor agency expenditures to prevent spending patterns which inflate agency expenditures during the second year of a biennium.

(6) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees. [1982 2nd ex.s. c 15 § 1; 1981 c 270 § 5; 1979 c 151 § 138; 1975 1st ex.s. c 293 § 6; 1965 c 8 § 43.88.110. Prior: 1959 c 328 § 11.]

Severability—1982 2nd ex.s. c 15: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 2nd ex.s. c 15 § 5.]

Effective date—**Severability**—1981 c 270: See notes following RCW 43.88.010.

43.88.112 Revision of allotments for funds appropriated to the superintendent of public instruction. If at any time during the fiscal period the governor ascertains that available revenues for the applicable period will be less than the respective appropriations, the governor shall revise the allotments for the total funds which are appropriated to the superintendent of public instruction for support of state-wide programs and which ultimately will be distributed to local school districts so as to prevent the making of expenditures in excess of available revenues, but the governor shall not revise the allotments for the superintendent of public instruction for support of state-wide programs by an amount which would result in less than ample provision for the basic education of the children of the state. [1982 2nd ex.s. c 15 § 2; 1981 c 270 § 7.]

Severability—1982 2nd ex.s. c 15: See note following RCW 43.88.110.

Effective date—**Severability**—1981 c 270: See notes following RCW 43.88.010.

43.88.113 Reduction of allotments for executive branch agencies required—Exception—Distribution of reductions—Additional powers of governor—Expiration of section. (1) The governor shall order the reduction of allotments of appropriations for executive

branch agencies, including those headed by elective officials, except for the superintendent of public instructions' allotments for support of state-wide programs and for the legislative and judicial branches of government, so that the total of the state general fund allotments for those agencies shall be twenty million dollars less than the total of the appropriations for those agencies. The allotment reductions shall be distributed among the agencies by measures which in the governor's judgment enhance the efficiency and productivity of state government, including but not limited to the following:

- (a) Cost-savings measures;
- (b) Cost-avoidance measures;
- (c) Improved management systems; and
- (d) Program and personnel reorganizations.

(2) The portion of any appropriation not needed for an allotment as reduced under this section shall lapse. The allotment reductions made under this section are in addition to any allotment reductions which may be made under RCW 43.88.110.

(3) Notwithstanding the provisions of RCW 41.06-.150 and rules promulgated thereunder, to carry out the provisions of this section the governor shall have the authority to implement:

- (a) Leave without pay;
- (b) Reduced workweek;
- (c) Reduced workday;
- (d) Modified holidays or unaccrued vacation leave;
- (e) Reduction in workforce; and
- (f) Reduction or elimination of increment increases.

(4) This section shall be deemed to be operative and the amount in this section shall be applied prior to implementation of RCW 43.88.110(3).

(5) This section shall expire on June 30, 1983. [1982 2nd ex.s. c 15 § 3.]

Severability—1982 2nd ex.s. c 15: See note following RCW 43.88.110.

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

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 financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system

shall also provide for comprehensive central accounts in the office of financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period. This shall include the timely reporting of primary budget drivers such as actual workloads, caseloads, and unit cost data for applicable areas. The director of financial management shall review the data for accuracy and consistency. The director shall submit the data to the legislative evaluation and accountability program committee. The legislative evaluation and accountability program committee shall provide reports on the data at least quarterly to the legislative fiscal committees and the office of financial management.

The director of financial management is responsible for quarterly reporting of primary budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be updated concurrently with the quarterly revenue and economic forecast and transmitted to the legislative fiscal committees. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

In addition, the director of financial 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 the director 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. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(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 the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(e) Provide for transfers and repayments between the budget stabilization account and the general fund as directed by appropriation and RCW 43.88.525 through 43.88.540;

(f) Promulgate regulations to effectuate provisions contained in subsections (a) through (e) 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 the treasurer's supervision or custody by warrant or check;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, 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 financial 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 financial management; and the treasurer shall not be liable under the treasurer's 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 the agency head's 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 the auditor's discretion, examine the books and accounts of any agency, official or employee charged with the receipt, custody or safekeeping of public funds. 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 the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include 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 financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(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. [1982 c 10 § 11. Prior: 1981 c 280 § 7; 1981 c 270 § 11; 1979 c 151 § 139; 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 RCW 44.28.085 and the 1971 amendments to RCW 43.09.050, 43.09.310, and 43.88.160.

Severability—1982 c 10: See note following RCW 6.12.100.

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

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

Director of financial management: Chapter 43.41 RCW.

Legislative budget committee: Chapter 44.28 RCW.

Post-audit: RCW 43.09.290 through 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 treasurer, duties: Chapter 43.08 RCW.

43.88.530 Budget stabilization account—Transfers to account. (1) The state treasurer, pursuant to an appropriation, shall transfer to the stabilization account a sum equal to the annual growth rate in real personal income minus three percentage points, multiplied by general state revenues for the immediately preceding fiscal year. Unless waived pursuant to RCW 43.88.535, transfers shall be made by the state treasurer during each biennium in eight equal amounts not later than the last day of each quarter commencing September 30, 1983.

(2) The state treasurer pursuant to appropriation shall transfer the unobligated cash surplus in the general fund as determined by the director of financial management after the conclusion of each biennium and following the certification of general state revenues by the state treasurer, provided that such revenues do not exceed the state tax revenue limit. No further deposits shall be made to the stabilization account during a biennium when the amount of the account equals or exceeds eight percent of general state revenues for the biennium. [1982 1st ex.s. c 36 § 2; 1981 c 280 § 3.]

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

43.88.535 Budget stabilization account—Appropriation for certain purposes—Waiver of deposits. (1) Money in the budget stabilization account may be appropriated by a favorable vote of sixty percent of the members elected to each house of the legislature for the following purposes:

(a) To provide for the continuation of agency programs at or near levels of existing appropriations when state revenues decline below projections;

(b) To provide the governor with reserve expenditure authority for the purpose specified in subsection (1)(a) of this section;

(c) For labor force training; and

(d) For any other purpose which the legislature finds would reduce unemployment caused by the state's economic cycle.

(2) The legislature by appropriation may provide for, or the governor may authorize, the waiver of deposits in any fiscal quarter to the stabilization account in the event of an expenditure from the account during such quarter. [1982 1st ex.s. c 36 § 3; 1981 c 280 § 4.]

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

Chapter 43.94

OCEANOGRAPHIC COMMISSION

Sections

43.94.010 through 43.94.050 Repealed.
43.94.900 Repealed.

43.94.010 through 43.94.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

Chapter 43.96B

EXPO '74

Sections

43.96B.040 Repealed.
43.96B.050 Repealed.
43.96B.130 Repealed.

43.96B.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.96B.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.96B.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.101

CRIMINAL JUSTICE TRAINING COMMISSION—EDUCATION AND TRAINING STANDARDS BOARDS

Sections

43.101.080 Commission powers and duties—Rules and regulations.

43.101.080 Commission powers and duties—Rules and regulations. 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, subject to the approval of the department of general administration, 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, innovative, 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. [1982 c 124 § 1; 1975-'76 2nd ex.s. c 17 § 3. Prior: 1975 1st ex.s. c 103 § 1; 1975 1st ex.s. c 82 § 1; 1974 ex.s. c 94 § 8.]

Chapter 43.117

STATE COMMISSION ON ASIAN-AMERICAN AFFAIRS

Sections

43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director.

43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director. (1) The commission shall consist of twelve members appointed by the governor. In making such appointments, the governor shall give due consideration to recommendations submitted to him by the commission. The governor may also consider nominations of members made by the various Asian-American organizations in the state. The governor shall consider nominations for membership based upon maintaining a balanced distribution of Asian-ethnic, geographic, sex, age, and occupational representation, where practicable.

(2) Appointments shall be for three years except in case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. Vacancies shall be filled in the same manner as the original appointments.

(3) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(4) Seven members shall constitute a quorum for the purpose of conducting business.

(5) The governor shall appoint an executive director based upon recommendations made by the council. [1982 c 68 § 1; 1981 c 338 § 16; 1975-'76 2nd ex.s. c 34 § 131; 1974 ex.s. c 140 § 4.]

Sunset Act application: See note following chapter digest.

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

Chapter 43.121

COUNCIL ON CHILD ABUSE AND NEGLECT

Sections

43.121.010 Legislative declaration, intent.
 43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.
 43.121.030 Reimbursement of members.
 43.121.040 Executive director, salary—Staff.
 43.121.050 Council powers and duties—Generally—Rules.
 43.121.060 Contracts for services—Scope of programs—Funding.

43.121.070 Contracts for services—Factors in awarding.
 43.121.080 Contracts for services—Partial funding by administering organization, what constitutes.
 43.121.090 Report to governor and legislature.
 43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received.
 43.121.900 Expiration of chapter.
 43.121.910 Severability—1982 c 4.

43.121.010 Legislative declaration, intent. The legislature recognizes that child abuse and neglect is a threat to the family unit and imposes major expenses on society. The legislature further declares that there is a need to assist private and public agencies in identifying and establishing community based educational and service programs for the prevention of child abuse and neglect. It is the intent of the legislature that an increase in prevention programs will help reduce the breakdown in families and thus reduce the need for state intervention and state expense. It is further the intent of the legislature that prevention of child abuse and child neglect programs are partnerships between communities, citizens, and the state. [1982 c 4 § 1.]

43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.

(1) There is established in the executive office of the governor a council on child abuse and neglect subject to the jurisdiction of the governor. As used in this chapter, "council" means the council on child abuse and neglect.

(2) The council shall be composed of the chairperson and ten other members as follows:

(a) The chairperson and four other members shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. A minimum of four designees by the governor shall not be affiliated with governmental agencies. A minimum of two of the designees shall reside east of the Cascade mountain range. Members appointed by the governor shall serve for two-year terms, except that the chairperson and two other members designated by the governor shall initially serve for three years. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The secretary of social and health services or the secretary's designee and the superintendent of public instruction or the superintendent's designee shall serve as voting members of the council.

(c) In addition to the members of the council, four members of the legislature shall serve as nonvoting, ex officio members of the council, one from each political caucus of the house of representatives to be appointed by the speaker of the house of representatives and one from each political caucus of the senate to be appointed by the president of the senate. [1982 c 4 § 2.]

43.121.030 Reimbursement of members. Council members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended. Attendance at meetings of the council shall be deemed performance by a member of the duties of a member's employment. [1982 c 4 § 3.]

43.121.040 Executive director, salary—Staff. The governor may employ an executive director who shall be exempt from the provisions of chapter 41.06 RCW, and such other staff as are necessary to carry out the purposes of this chapter. The salary of the executive director shall be fixed by the governor pursuant to RCW 43.03.040. [1982 c 4 § 4.]

43.121.050 Council powers and duties—Generally—Rules. To carry out the purposes of this chapter, the council on child abuse and neglect may:

(1) Contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals for the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect. Each contract entered into by the council shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect shall be awarded as demonstration projects with continuation based upon goal attainment. Contracts for services to prevent child abuse and child neglect shall be awarded on the basis of probability of success based in part upon sound research data.

(2) Facilitate the exchange of information between groups concerned with families and children.

(3) Consult with applicable state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(4) Establish fee schedules to provide for the recipients of services to reimburse the state general fund for the cost of services received.

(5) Adopt its own bylaws.

(6) Adopt rules under chapter 34.04 RCW as necessary to carry out the purposes of this chapter. [1982 c 4 § 5.]

43.121.060 Contracts for services—Scope of programs—Funding. Programs contracted for under this chapter are intended to provide primary child abuse and neglect prevention services. Such programs may include, but are not limited to:

(1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, and coping with family stress; and

(2) Community-based programs relating to crisis care, aid to parents, child-abuse counseling, support groups for abusive or potentially abusive parents and their children, and early identification of families where the potential for child abuse and neglect exists.

The council shall develop policies to determine whether programs will be demonstration or will receive continuous funding. Nothing in this chapter requires continued funding by the state. [1982 c 4 § 6.]

43.121.070 Contracts for services—Factors in awarding. In awarding contracts under RCW 43.121.060, consideration shall be given to factors such

as need, diversity of geographic locations, coordination with or enhancement of existing services, and the extensive use of volunteers in the program. Further consideration shall be given to the extent to which contract proposals are based on prior research that indicates a probability of goal achievement. [1982 c 4 § 7.]

43.121.080 Contracts for services—Partial funding by administering organization, what constitutes. Twenty-five percent of the funding for programs under this chapter shall be provided by the organization administering the program. Contributions of materials, supplies, or physical facilities may be considered as all or part of the funding provided by the organization. [1982 c 4 § 8.]

43.121.090 Report to governor and legislature. The council shall report before the regular session of the legislature in 1983 to the governor and to the legislature concerning the council's activities and the effectiveness of those activities in fostering the prevention of child abuse and neglect. [1982 c 4 § 9.]

43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received. The council may accept contributions, grants, or gifts in cash or otherwise from persons, associations, or corporations. All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature shall be deposited in a depository approved by the state treasurer. Disbursements of such funds shall be on the authorization of the council or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds. [1982 c 4 § 10.]

43.121.900 Expiration of chapter. This chapter shall expire June 30, 1984. [1982 c 4 § 11.]

43.121.910 Severability—1982 c 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 4 § 15.]

Chapter 43.131

WASHINGTON SUNSET ACT OF 1977

Sections

43.131.227	State veterans affairs advisory committee—Termination.
43.131.228	State veterans affairs advisory committee—Repeal.
43.131.229	Repealed.
43.131.230	Repealed.
43.131.234	State voting machine committee—Repeal.
43.131.245	Department of veterans affairs—Termination.
43.131.246	Department of veterans affairs—Repeal.
43.131.247	Board of accountancy—Termination.
43.131.248	Board of accountancy—Repeal.
43.131.249	Board of pharmacy—Termination.
43.131.250	Board of pharmacy—Repeal.

- 43.131.251 Department of emergency services—Termination.
 43.131.252 Department of emergency services—Repeal.
 43.131.253 Hospital commission—Termination.
 43.131.254 Hospital commission—Repeal.
 43.131.255 State employees' suggestion awards and incentive pay program—Termination.
 43.131.900 Expiration of 1977 ex.s. c 289—Exception.

Termination of tax preferences: Chapter 43.136 RCW.

43.131.227 State veterans affairs advisory committee—Termination. The state veterans affairs advisory committee and its powers and duties shall be terminated on June 30, 1988, as provided in RCW 43.131.228. [1982 c 223 § 14; 1979 c 99 § 40.]

43.131.228 State veterans affairs advisory committee—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1989:

(1) Section 14, chapter 115, Laws of 1975-'76 2nd ex. sess., section 1, chapter 285, Laws of 1977 ex. sess. and RCW 43.60A.080; and

(2) Section 2, chapter 285, Laws of 1977 ex. sess., section 13, chapter 223, Laws of 1982 and RCW 43.60A.081. [1982 c 223 § 15; 1979 c 99 § 82.]

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

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

43.131.234 State voting machine committee—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1982:

(1) Section 29.33.030, chapter 9, Laws of 1965 and RCW 29.33.030;

(2) Section 29.33.040, chapter 9, Laws of 1965, section 13, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.040;

(3) Section 29.33.050, chapter 9, Laws of 1965, section 14, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.050;

(4) Section 29.33.060, chapter 9, Laws of 1965, section 15, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.060;

(5) Section 29.33.070, chapter 9, Laws of 1965, section 16, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.070;

(6) Section 29.33.080, chapter 9, Laws of 1965, section 17, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.080; and

(7) Section 29.33.100, chapter 9, Laws of 1965, section 20, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.100. [1982 c 40 § 9; 1979 c 99 § 85.]

Severability—1982 c 40: See note following RCW 29.33.041.

43.131.245 Department of veterans affairs—Termination. The department of veterans affairs and its powers and duties shall be terminated on June 30, 1988, as provided in RCW 43.131.246. [1982 c 223 § 1.]

43.131.246 Department of veterans affairs—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1989:

(1) Section 1, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.010;

(2) Section 2, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.020;

(3) Section 3, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.030;

(4) Section 4, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.040;

(5) Section 5, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.050;

(6) Section 6, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.060; and

(7) Section 8, chapter 115, Laws of 1975-'76 2nd ex. sess. and RCW 43.60A.070. [1982 c 223 § 5.]

43.131.247 Board of accountancy—Termination. The board of accountancy and its powers and duties shall be terminated on June 30, 1984, as provided in RCW 43.131.248. [1982 c 223 § 2.]

43.131.248 Board of accountancy—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1985:

(1) Section 1, chapter 226, Laws of 1949 and RCW 18.04.020;

(2) Section 2, chapter 226, Laws of 1949 and RCW 18.04.030;

(3) Section 3, chapter 226, Laws of 1949 and RCW 18.04.040;

(4) Section 4, chapter 226, Laws of 1949 and RCW 18.04.050;

(5) Section 5, chapter 226, Laws of 1949 and RCW 18.04.060;

(6) Section 6, chapter 226, Laws of 1949, section 1, chapter 294, Laws of 1961 and RCW 18.04.070;

(7) Section 7, chapter 226, Laws of 1949, section 25, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 18.04.080;

(8) Section 8, chapter 226, Laws of 1949 and RCW 18.04.090; and

(9) Section 9, chapter 226, Laws of 1949, section 8, chapter 75, Laws of 1977 and RCW 18.04.100. [1982 c 223 § 6.]

43.131.249 Board of pharmacy—Termination. The board of pharmacy and its powers and duties shall be terminated on June 30, 1984, as provided in RCW 43.131.250. [1982 c 223 § 3.]

43.131.250 Board of pharmacy—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1985:

(1) Section 1, chapter 98, Laws of 1935, section 16, chapter 38, Laws of 1963, section 1, chapter 18, Laws of 1973 1st ex. sess., section 17, chapter 338, Laws of 1981 and RCW 18.64.001;

(2) Section 2, chapter 98, Laws of 1935, section 17, chapter 38, Laws of 1963, section 40, chapter 34, Laws of 1975–76 2nd ex. sess., section 1, chapter 90, Laws of 1979 and RCW 18.64.003;

(3) Section 3, chapter 98, Laws of 1935, section 18, chapter 38, Laws of 1963, section 2, chapter 18, Laws of 1973 1st ex. sess., section 2, chapter 90, Laws of 1979, section 21, chapter 67, Laws of 1981 and RCW 18.64.005;

(4) Section 19, chapter 38, Laws of 1963, section 3, chapter 90, Laws of 1979 and RCW 18.64.007; and

(5) Section 1, chapter 82, Laws of 1969 ex. sess., section 4, chapter 90, Laws of 1979 and RCW 18.64.009. [1982 c 223 § 7.]

43.131.251 Department of emergency services—Termination. The department of emergency services and its powers and duties shall be terminated on June 30, 1984, as provided in RCW 43.131.252. [1982 c 223 § 4.]

43.131.252 Department of emergency services—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1985:

(1) Section 1, chapter 6, Laws of 1972 ex. sess. and RCW 38.52.005;

(2) Section 2, chapter 6, Laws of 1972 ex. sess. and RCW 38.52.006; and

(3) Section 4, chapter 178, Laws of 1951, section 3, chapter 203, Laws of 1967, section 58, chapter 154, Laws of 1973 1st ex. sess., section 3, chapter 113, Laws of 1975 1st ex. sess. and RCW 38.52.030. [1982 c 223 § 8.]

43.131.253 Hospital commission—Termination. The hospital commission and its powers and duties shall be terminated on June 30, 1984, as provided in RCW 43.131.254. [1982 c 223 § 9.]

43.131.254 Hospital commission—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1985:

(1) Section 2, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.010;

(2) Section 3, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.020;

(3) Section 4, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.030;

(4) Section 5, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 36, Laws of 1977 and RCW 70.39.040;

(5) Section 6, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.050;

(6) Section 7, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 35, Laws of 1977 and RCW 70.39.060;

(7) Section 8, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.070;

(8) Section 9, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.080;

(9) Section 10, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.090;

(10) Section 11, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.100;

(11) Section 12, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.110;

(12) Section 13, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.120;

(13) Section 14, chapter 5, Laws of 1973 1st ex. sess., section 82, chapter 75, Laws of 1977 and RCW 70.39.130;

(14) Section 15, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 163, Laws of 1974 ex. sess. and RCW 70.39.140;

(15) Section 16, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 154, Laws of 1977 ex. sess. and RCW 70.39.150;

(16) Section 17, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.160;

(17) Section 18, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.170;

(18) Section 19, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.180;

(19) Section 20, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.190;

(20) Section 21, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.200;

(21) Section 22, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.900; and

(22) Section 23, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.910. [1982 c 223 § 10.]

43.131.255 State employees' suggestion awards and incentive pay program—Termination. Chapter 41.60 RCW as now existing or hereafter amended shall terminate on June 30, 1987. [1982 c 167 § 15.]

Severability—1982 c 167: See note following RCW 41.60.015.

43.131.900 Expiration of 1977 ex.s. c 289—Exception. Except for *sections 14, 15, and 17 of this 1977 amendatory act, **this 1977 amendatory act shall expire on June 30, 1990, unless extended by law for an additional fixed period of time. [1982 c 223 § 16; 1979 c 22 § 3; 1977 ex.s. c 289 § 16.]

Reviser's note: *(1) "sections 14, 15, and 17 of this 1977 amendatory act" consist of RCW 43.131.140 (section 14), the 1977 amendment to RCW 43.06.010 (section 15), and section 17 (uncodified) which is a repealer.

** (2) "this 1977 amendatory act" consists of RCW 43.131.010, 43.131.020, 43.131.030, 43.131.040, 43.131.050, 43.131.060, 43.131.070, 43.131.080, 43.131.090, 43.131.100, 43.131.110, 43.131.120, 43.131.130, 43.131.140, and 43.131.900; the 1977 amendment to RCW 43.06.010; the repeal of 69 sections of the Revised Code of Washington; a severability clause; and an emergency clause.

Chapter 43.136

TERMINATION OF TAX PREFERENCES

Sections

43.136.010 Legislative findings—Intent.
43.136.020 "Tax preference" defined.

- 43.136.030 Legislative budget committee and department of revenue—Review of tax preferences—Reports.
- 43.136.040 Legislative budget committee review of tax preferences—Factors for consideration.
- 43.136.050 Powers and duties of ways and means committees.
- 43.136.060 Development of legislation for the termination of tax preferences.
- 43.136.070 Report on existing tax preferences to be provided—Additional information to be provided.

Analysis of desirability of existing tax exemptions by tax advisory council: RCW 43.38.020.

43.136.010 Legislative findings—Intent. The legislature recognizes that tax preferences are enacted by the legislature to meet objectives which are determined to be in the public interest. The legislature finds, however, that some tax preferences may not be efficient or equitable tools for the achievement of current legislative objectives. The legislature finds that unless it can be demonstrated that the public interest is served by the continued existence of tax preferences, they should be terminated or modified. The legislature further finds that periodic evaluations of tax preferences are needed to determine if their continued existence is in the public interest.

It is the intent of the legislature to establish a mechanism for scheduling periodic evaluations of tax preferences together with a system for their termination, continuation, or modification. By this mechanism, the legislature intends to ensure that thorough periodic evaluations are made and that those tax preferences which do not continue to serve the public interest are terminated or modified. [1982 1st ex.s. c 35 § 39.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.020 "Tax preference" defined. As used in this chapter, "tax preference" means an exemption, exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. [1982 1st ex.s. c 35 § 40.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.030 Legislative budget committee and department of revenue—Review of tax preferences—Reports. The legislative budget committee shall review each tax preference for termination by the processes provided in this chapter. The review shall be completed and a report prepared on or before June 30th of the year prior to the date established for termination. Upon completion of its report, the legislative budget committee shall transmit copies of the report to the department of revenue. The department of revenue may then conduct its own review of the tax preference scheduled for termination and shall prepare a report on or before September 30th of the year prior to the date established for termination. Upon completion of its report the department of revenue shall transmit copies of its report to the legislative budget committee. The legislative budget committee shall prepare a final report that includes the

reports of both the department of revenue and the legislative budget committee. The legislative budget committee and the department of revenue shall, upon request, make available to each other all working papers, studies, and other documents which relate to reports required under this section. The legislative budget committee shall transmit the final report to all members of the legislature, to the governor, and to the state library. [1982 1st ex.s. c 35 § 41.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.040 Legislative budget committee review of tax preferences—Factors for consideration. In reviewing a tax preference, the legislative budget committee shall develop information needed by the legislature to determine if the tax preference should be terminated as scheduled, modified, or reestablished without modification. The legislative budget committee shall consider, but not be limited to, the following factors in the review.

(1) The persons or organizations whose state tax liabilities are directly affected by the tax preference.

(2) Legislative objectives that might provide a justification for the tax preference.

(3) Evidence that the existence of the tax preference has contributed to the achievement of any of the objectives identified in subsection (2) of this section.

(4) The extent to which continuation of the tax preference beyond its scheduled termination date might contribute to any of the objectives identified in subsection (2) of this section.

(5) Fiscal impacts of the tax preference, including past impacts and expected future impacts if it is not terminated as scheduled.

(6) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes. [1982 1st ex.s. c 35 § 42.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.050 Powers and duties of ways and means committees. (1) Following receipt of the final report from the legislative budget committee, the ways and means committees of the house of representatives and the senate shall jointly hold a public hearing to consider the final report and any related data. The committees shall also receive testimony from the governor, or the governor's designee, and other interested parties, including the general public.

(2) Following the joint hearing, the committees may separately hold additional meetings or hearings to come to a final determination as to whether a continuation, modification, or termination of a tax preference is in the public interest. If a committee determines that a tax preference should be continued or modified, it shall make the determination as a bill. No more than one tax preference shall be reestablished or modified in any one bill. [1982 1st ex.s. c 35 § 43.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.060 Development of legislation for the termination of tax preferences. The select joint committee established under RCW 43.131.120 shall be responsible for the development of legislation which provides a schedule for the termination of tax preferences in a manner consistent with the terms of this chapter. The termination of tax preferences shall occur over a period of four years, beginning on June 30, 1984. In the development of this legislation, the select joint committee shall identify tax preferences which might appropriately be scheduled for termination and arrange for automatic termination of tax preferences, with a reasonable number of tax preferences to be terminated on June 30, 1984, including appropriate tax exemptions identified as eligible for termination by the department of revenue in the study conducted pursuant to section 26(3), chapter 340, Laws of 1981 (uncodified), a reasonable number of tax preferences to be terminated on June 30, 1985, a reasonable number of tax preferences to be terminated on June 30, 1986, and a reasonable number of tax preferences to be terminated on June 30, 1987.

Proposed legislation, recommendations, and findings shall be submitted to the legislature as soon as is practicable, but no later than the first day the legislature is in session after January 1, 1983. [1982 1st ex.s. c 35 § 44.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.070 Report on existing tax preferences to be provided—Additional information to be provided. On or before September 30, 1982, the department of revenue shall provide the select joint committee with a report on existing tax preferences. The report shall include a list of tax preferences and a description of each one. Upon request of the select joint committee, the department of revenue shall provide additional information needed by the select joint committee to meet its responsibilities under this chapter. [1982 1st ex.s. c 35 § 45.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Chapter 43.150

CENTER FOR VOLUNTARY ACTION ACT

Sections

43.150.010	Legislative findings.
43.150.020	Short title.
43.150.030	Definitions.
43.150.040	Center for voluntary action authorized—Coordinator—Staff.
43.150.050	Programs and activities authorized.
43.150.060	Council on voluntary action created—Membership—Travel expenses—Duties—Annual report.
43.150.070	Receipt and expenditure of donations—Fees—Voluntary action center fund created.
43.150.080	Expiration of center and council—Performance audit.

43.150.010 Legislative findings. (1) The legislature finds that:

(a) Large numbers of Washington's citizens are actively engaged in voluntary activities that benefit their citizens, their communities, and the entire state;

(b) Volunteers, working on their own and with agencies and organizations, are involved in the development and enhancement of all areas of community service and activity;

(c) The contribution thus made provides the equivalent of hundreds of millions of dollars in services that might otherwise create a need for additional tax collections;

(d) The state itself, through the programs and services of its agencies as well as through the provisions of law and rule-making, has a substantial impact on volunteer efforts and programs;

(e) Public and private agencies depend in large measure on the efforts of volunteers for the accomplishment of their missions and actively seek to increase these efforts;

(f) Business, industry, and labor in Washington state are increasingly interested in opportunities for community service;

(g) Many needs remain which could and should be met by volunteers working on their own and through local and state-wide organizations, both governmental and private, nonprofit agencies;

(h) Many Washington citizens have yet to become fully involved in the life of their communities;

(i) The opportunity exists to encourage greater and more effective involvement of volunteers in the provision of needed community services; and

(j) Planned and coordinated recognition, information, training, and technical assistance for volunteer efforts through a state-wide center for voluntary action have been proven to be effective means of multiplying the resources volunteers bring to the needs of their communities.

(2) Therefore, the legislature, in recognition of these findings, enacts the Center for Voluntary Action Act to ensure that the state of Washington makes every appropriate effort to encourage effective involvement of individuals in their communities and of volunteers who supplement the services of private, nonprofit community agencies and organizations, agencies of local government throughout the state, and the state government. [1982 1st ex.s. c 11 § 1.]

43.150.020 Short title. This chapter may be known and cited as the Center for Voluntary Action Act. [1982 1st ex.s. c 11 § 2.]

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

(1) "Volunteer" means a person who is willing to work without expectation of salary or financial reward and who chooses where he or she provides services and the type of services he or she provides.

(2) "Center" means the state center for voluntary action.

(3) "Council" means the Washington state council on voluntary action. [1982 1st ex.s. c 11 § 3.]

43.150.040 Center for voluntary action authorized—Coordinator—Staff. The governor may establish a state-wide center for voluntary action within the planning and community affairs agency or its statutory successor, and appoint a coordinator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do not apply to the coordinator and the staff. [1982 1st ex.s. c 11 § 4.]

43.150.050 Programs and activities authorized. The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter. [1982 1st ex.s. c 11 § 5.]

43.150.060 Council on voluntary action created—Membership—Travel expenses—Duties—Annual report. (1) There is created the Washington state council on voluntary action to assist the governor and the center in the accomplishment of its mission.

(2) Giving due consideration to geographic representation, the governor shall appoint the members of the council as provided in this section.

(3) The governor shall appoint a chair for the council.

(4) The advisory council shall have an odd number of members, including its chair, appointed or reappointed for three-year terms, with a total membership of no less than fifteen and no more than twenty-one.

(5) Upon initial appointment, one-third of the members of the advisory council shall be appointed for one-year terms, one-third for two-year terms, and one-third for three-year terms. Thereafter, as vacancies shall occur, appointments shall be for the unexpired portion of the term.

(6) Members of the council shall upon request be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(7) The council and its members shall:

(a) Advise the governor as he may request and direct;

(b) Propose, review, and evaluate activities and programs of the center and, to the degree practical, advocate decentralization of the center's activities, facilitate but not require or hinder existing local volunteer services, and not advocate the replacement of needed paid staff with volunteers;

(c) Represent the governor and the center on such occasions and in such manner as the governor may from time to time provide; and

(d) Deliver to the governor and the legislature on the 15th of December, 1982, and of each year thereafter a report outlining the scope and nature of volunteer activities in the state, assessing the need and potential for volunteer activities in the state, identifying and recognizing significant accomplishments and services of individual volunteers and volunteer programs, and making such recommendations as the council determines by majority vote. [1982 1st ex.s. c 11 § 6.]

43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created.

(1) The center may receive such gifts, grants, and endowments from private or public sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purpose of the center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. The center may charge reasonable fees, or other appropriate charges, for attendance at workshops and conferences, for various publications and other materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of those activities and materials.

(2) A fund known as the voluntary action center fund is created, which consists of all gifts, grants, and endowments, fees, and other revenues received pursuant to this chapter. The state treasurer is the custodian of the fund. Disbursements from the fund shall be on authorization of the coordinator of the center or the coordinator's designee, and may be made for the following purposes to enhance the capabilities of the center's activities, such as: (a) Reimbursement of center volunteers for travel expenses as provided in RCW 43.03.050 and 43.03.060; (b) publication and distribution of materials involving volunteerism; (c) for other purposes designated in gifts, grants, or endowments consistent with the purposes of this chapter. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1982 1st ex.s. c 11 § 7.]

43.150.080 Expiration of center and council—Performance audit. The center and the council shall cease to exist on June 30, 1985, unless extended by law for an additional fixed period of time. The legislative budget committee shall cause a performance audit of the

center and the council to be conducted. The final audit report shall be available to the legislature at least six months before the scheduled termination date. The audit shall include, but is not limited to, objective findings of fact, conclusions, and recommendations as to the continuation, modification, or termination of the center and council. [1982 1st ex.s. c 11 § 8.]

Chapter 43.160

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

Sections

43.160.010	Legislative declaration.
43.160.020	"Board" defined.
43.160.030	Community economic revitalization board created—Membership—Terms—Chairman, vice chairman—Staff support—Travel expenses—Vacancies—Removal.
43.160.040	Conflicts of interest—Code of ethics.
43.160.050	Additional powers of board.
43.160.060	Loans and grants to political subdivisions for public facilities authorized—Application—Use of funds limited.
43.160.070	Conditions.
43.160.080	Public facilities construction loan revolving fund.
43.160.090	Records—Audits—Reports.
43.160.900	Expiration of chapter—Transfer of duties.
43.160.901	Severability—1982 1st ex.s. c 40.

43.160.010 Legislative declaration. The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities for the general welfare of the inhabitants of the state. Reducing unemployment as soon as possible is important for the economic welfare of the state. Economic development should be fostered through the construction of public facilities. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include: (1) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies; (2) encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment; and (3) providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment. [1982 1st ex.s. c 40 § 1.]

43.160.020 "Board" defined. Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

"Board" means the community economic revitalization board. [1982 1st ex.s. c 40 § 2.]

43.160.030 Community economic revitalization board created—Membership—Terms—Chairman, vice chairman—Staff support—Travel expenses—Vacancies—Removal. (1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of nine persons appointed by the governor and the director of commerce and economic development, the director of planning and community affairs, the director of revenue, the commissioner of employment security, and the chairmen of the committee on labor and economic development of the house of representatives and the committee on commerce and labor of the senate, or the equivalent standing committees, for a total of fifteen members. The appointive members shall be as follows: A recognized private or public sector economist selected from the governor's council of economic advisors; one port district official; one county official; one city official; one representative of small businesses each from: (a) The area west of Puget Sound or the Interstate 5 corridor, (b) the area east of the Cascade range and west of the Columbia river; and (c) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chairman. Thereafter each succeeding term shall be for three years. The representative from the governor's council of economic advisors shall serve as chairman of the board. The director of the department of commerce and economic development shall serve as vice chairman.

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

(4) All appointive members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Any members of the board, appointive or otherwise, may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.04 RCW. [1982 1st ex.s. c 40 § 3.]

43.160.040 Conflicts of interest—Code of ethics. In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no board member, appointive or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association which would be the recipient of any aid under this chapter. In any instance where the participation occurs, the board shall void the transaction, and the involved member shall be subject to whatever further sanctions may be provided by law. The board shall frame and adopt a code of

ethics for its members, which shall be designed to protect the state and its citizens from any unethical conduct by the board. [1982 1st ex.s. c 40 § 4.]

43.160.050 Additional powers of board. In addition to powers and duties granted elsewhere in this chapter, the board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal and alter the seal at its pleasure;

(3) Contract with any consultants as may be necessary or desirable for its purposes and to fix the compensation of the consultants;

(4) Utilize the services of other governmental agencies;

(5) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants;

(6) Conduct examinations and investigations and take testimony at public or private hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers;

(7) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(8) Adopt rules under chapter 34.04 RCW as necessary to carry out the purposes of this chapter;

(9) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [1982 1st ex.s. c 40 § 5.]

43.160.060 Loans and grants to political subdivisions for public facilities authorized—Application—Use of funds limited. The board is authorized to make direct loans to political subdivisions of the state for the purposes of assisting the political subdivisions in financing the cost of public facilities, including the cost of acquisition and development of land and improvements for public facilities, as well as the acquisition, construction, rehabilitation, alteration, expansion, or improvement of the facilities. Grants may also be authorized for purposes designated in this chapter, but only when grants are uniquely required.

Application for funds shall be made in the form and manner as the board may prescribe. A responsible official of the political subdivision shall be present during board deliberations and provide information that the board requests.

Public facilities funds shall be used for projects to improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities. The board shall determine whether or not the projects will assist in alleviating unemployment. [1982 1st ex.s. c 40 § 6.]

43.160.070 Conditions. (1) Public facilities loans and grants, when authorized by the board, are subject to the following conditions:

(a) The moneys in the public facilities construction loan revolving account shall be used solely to fulfill commitments arising from loans or grants authorized in this chapter. The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the account.

(b) Financial assistance through the loans or grants may be used directly or indirectly for any facility for public purposes, including, but not limited to, sewer or other waste disposal facilities, arterials, bridges, access roads, port facilities, or water distribution and purification facilities.

(c) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans as the board determines. The loans shall not exceed twenty years in duration.

(d) Repayments of loans made under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving account.

(2) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist. [1982 1st ex.s. c 40 § 7.]

43.160.080 Public facilities construction loan revolving fund. There shall be a fund known as the public facilities construction loan revolving fund, which shall consist of all moneys collected under this chapter and any moneys appropriated to it by law. Funds remaining in any accounts created under RCW 43.31A.320 shall be automatically transferred to the public facilities construction loan revolving fund when the economic assistance authority is terminated. The state treasurer shall be custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

Moneys in this fund not needed to meet the current expenses and obligations of the board shall be invested in the manner authorized for moneys in revolving funds. Any interest earned shall be deposited in this fund and shall be used for the purposes specified in this chapter. The state treasurer shall render reports to the board advising of the status of any funds invested, the market value of the assets as of the date the statement is rendered, and the income received from the investments during the period covered by the report. [1982 1st ex.s. c 40 § 8.]

43.160.090 Records—Audits—Reports. The board shall keep proper records of accounts and shall be subject to audit by the state auditor. Biennial reports on

the activities of the board shall be made by the chairman to the governor and the legislature. [1982 1st ex.s. c 40 § 9.]

43.160.900 Expiration of chapter—Transfer of duties. This chapter expires June 30, 1987. Any remaining duties of the community economic revitalization board after June 30, 1987, are transferred to the department of revenue on June 30, 1987. [1982 1st ex.s. c 40 § 10.]

43.160.901 Severability—1982 1st ex.s. c 40. 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. [1982 1st ex.s. c 40 § 11.]

Chapter 43.170

SMALL BUSINESS INNOVATORS' OPPORTUNITY PROGRAM

Sections

43.170.010	Legislative findings.
43.170.020	Definitions.
43.170.030	Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee.
43.170.040	Chairman of program.
43.170.050	Quarterly reports.
43.170.060	Eligibility.
43.170.900	Expiration of project and chapter.

43.170.010 Legislative findings. The legislature recognizes the numerous benefits to the state's economic base from the establishment of small businesses by innovators and inventors and the numerous benefits provided by inventors and innovators through industrial diversification, broadening of the economic base, and providing financial benefits to our citizens and new products to the nation's consumers.

It is estimated that ninety-five percent of all inventions and innovations are never authoritatively considered primarily because inventors are unfamiliar with the business environment or financial structure necessary for implementing their proposals.

The legislature therefore recognizes a need to encourage and assist innovators and inventors. [1982 c 44 § 1.]

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

(1) "Department" means the department of commerce and economic development.

(2) "Director" means the director of commerce and economic development.

(3) "Program" means the small business innovators' opportunity program.

(4) "Inventor" or "innovator" means one who thinks of, imagines, or creates something new which may result in a device, contrivance, or process for the first time, through the use of the imagination or ingenious thinking and experimentation.

(5) "Proposal" means a plan provided by an inventor or innovator on an idea for an invention or an improvement.

(6) "Higher education" means any university, college, community college, or technical institute in this state. [1982 c 44 § 2.]

43.170.030 Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee. The department of commerce and economic development, in cooperation with institutions of higher education, shall establish as a pilot project a small business innovators' opportunity program to provide a professional research and counseling service on a user fee basis to inventors, innovators, and the business community.

The composition and organizational structure of the program shall be determined by the department in a manner which will foster the continuation of the program without state funding at the end of the pilot project established by this chapter. The department shall provide staff support for the program for the duration of the pilot project. The program shall:

(1) Receive proposals from inventors and innovators;

(2) Review proposals for accuracy and evaluate their prospects for marketability;

(3) Cooperate with institutions of higher education to evaluate proposals for marketability, suitability for patent rights, and for the provision of professional research and counseling;

(4) Provide assistance to the innovators and inventors as appropriate; and

(5) Have the power to receive funds, contract with institutions of higher education, and carry out such other duties as are deemed necessary to implement this chapter.

The user fee shall be set by the director in an amount which is designed to recover the cost of the services provided. [1982 c 44 § 3.]

43.170.040 Chairman of program. The director shall be the chairman of the program during the pilot project. [1982 c 44 § 4.]

43.170.050 Quarterly reports. The director shall report quarterly to the appropriate legislative committees with special emphasis on the program's impact on the economy of the state together with any recommendations. [1982 c 44 § 5.]

43.170.060 Eligibility. Only businesses with fifty employees or less which are not subsidiaries of another business and individuals are eligible to participate in the program. [1982 c 44 § 6.]

43.170.900 Expiration of project and chapter. The pilot project for the Washington small business innovators' opportunity program shall terminate on June 30, 1984, and this chapter shall expire on such date and thereafter shall be void and of no further force and effect. [1982 c 44 § 7.]

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapters

- 44.04** General provisions.
- 44.07B** Legislative districts and apportionment.
- 44.20** Session laws.
- 44.40** Legislative transportation committee—Senate and house transportation committees.

Board of review, business registration and licensing, legislative ex officio members: RCW 19.02.040.

Council on child abuse and neglect, legislators as ex officio members: RCW 43.121.020.

Reports to legislature

board of review, business registration and licensing: RCW 19.02.040.

business license center: RCW 19.02.030.

council on child abuse and neglect: RCW 43.121.090.

governor to submit recommendations on licensure requirements to legislature: RCW 19.02.130.

student transportation allocation: See notes following RCW 28A.41.520.

Voting boundary commission: Chapter 29.70 RCW.

Chapter 44.04

GENERAL PROVISIONS

Sections

- 44.04.500 Select committee for oversight of Mt. St. Helens recovery operations.

44.04.500 Select committee for oversight of Mt. St. Helens recovery operations. A select committee shall be appointed for oversight of Mt. St. Helens recovery operations consisting of six members from the senate, to be appointed by the president, and six members of the house of representatives, to be appointed by the speaker. The committee shall report to the legislature at the beginning of each regular session. [1982 c 7 § 9.]

Severability—1982 c 7: See note following RCW 36.01.150.

Chapter 44.07B

LEGISLATIVE DISTRICTS AND APPORTIONMENT

Sections

- 44.07B.350 Thirty-fifth legislative district.
- 44.07B.420 Forty-second legislative district.

44.07B.350 Thirty-fifth legislative district. The Thirty-fifth legislative district shall consist of the following areas:

All of Mason County

In Kitsap County:

- T 805
- T 809
- T 810
- T 811

- T 812
- T 813
- T 814
- T 814.99
- T 913
- T 920

In Thurston County:

- T 119

In Grays Harbor County:

- BNA 9901
- BNA 9902
- BNA 9909

- ED 650
- ED 651A
- ED 651B

- ED 652A

- ED 653

- ED 654

- ED 655

- ED 656

- ED 657

- ED 658 (part: Those portions of ED 658 not included within legislative district 19-B.)

- ED 659

- ED 660

- ED 661A

- ED 661B

- ED 667

- ED 668

- ED 669 (part: Those portions of ED 669 not included within legislative district 19-B or the Twenty-fourth legislative district.)

- ED 675

- ED 676

- ED 677

- ED 678

- ED 679

- ED 680

- ED 681

- ED 689

[1981 2nd ex.s. c 5 § 1; 1981 c 288 § 45.]

44.07B.420 Forty-second legislative district. The Forty-second legislative district shall consist of the following areas:

In Whatcom County:

- T 1

- T 2

- T 3

- T 4

- T 4.99

- T 5

- T 6

- T 7

- T 8 (part: BG 1, B 201-234, ED 186, 188)

T 9 (part: B 101, 103–116, 127, and the part of B 126 in the city of Bellingham)

T 101
T 102
T 103
T 104
T 105
T 106
T 107
T 108
T 109

[1981 c 288 § 53.]

Reviser's note: This section as it appeared in the main volume of the 1981 edition of the RCW contained a typographical error. The correct version is printed here.

Chapter 44.20 SESSION LAWS

Sections

44.20.030 Publication of temporary edition.
44.20.040 Repealed.
44.20.050 Headings, index—Publication of permanent edition.

44.20.030 Publication of temporary edition. The statute law committee, after each and every legislative session, whether regular or extraordinary, shall cause to be reproduced or printed for temporary use separate copies of each act filed in the office of secretary of state within ten days after the filing thereof.

The committee shall cause to be reproduced or printed three thousand copies or such additional number as may be necessary of temporary bound sets of all acts filed in the office of secretary of state within seventy-five days after the final adjournment of the legislature for that year. [1982 1st ex.s. c 32 § 3; 1969 c 6 § 2; 1961 c 21 § 1; 1933 ex.s. c 31 § 1; 1933 c 27 § 1; 1925 ex.s. c 35 § 1; 1907 c 136 § 3; RRS § 8198.]

*Distribution of temporary edition of session laws: RCW 40.04.035.
Statute law committee: Chapter 1.08 RCW.*

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

44.20.050 Headings, index—Publication of permanent edition. When all of the acts of any session of the legislature and initiative measures enacted by the people since the next preceding session have been certified to the statute law committee, the code reviser employed by the statute law committee shall make the proper headings and index of such acts or laws and, after such work has been completed, the statute law committee shall have published and bound in good buckram at least six hundred copies or such additional copies as may be necessary of such acts and laws, with such headings and indexes, and such other matter as may be deemed

essential, including a title page showing the session at which such acts were passed, the date of convening and adjournment of the session, and any other matter deemed proper, including a certificate by the secretary of state of such referendum measures as may have been enacted by the people since the next preceding session. [1982 1st ex.s. c 32 § 4; 1969 c 6 § 4; 1951 c 157 § 18; 1915 c 27 § 1; 1907 c 136 § 5; RRS § 8200.]

Distribution of permanent edition of session laws: RCW 40.04.040.

Chapter 44.40 LEGISLATIVE TRANSPORTATION COMMITTEE—SENATE AND HOUSE TRANSPORTATION COMMITTEES

Sections

44.40.030 Participation in activities of other organizations.

44.40.030 Participation in activities of other organizations. In addition to the powers and duties heretofore conferred upon it, the legislative transportation committee may participate in: (1) The activities of committees of the council of state governments concerned with transportation activities; (2) activities of the national committee on uniform traffic laws and ordinances; (3) any interstate reciprocity or proration meetings designated by the department of licensing; and (4) such other organizations as it deems necessary and appropriate. [1982 c 227 § 17; 1977 ex.s. c 235 § 7; 1971 ex.s. c 195 § 3; 1963 ex.s. c 3 § 38.]

Effective date—1982 c 227: See note following RCW 18.34.130.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

Title 46 MOTOR VEHICLES

Chapters

46.04 Definitions.
46.08 General provisions.
46.10 Snowmobiles.
46.12 Certificates of ownership and registration.
46.16 Vehicle licenses.
46.20 Drivers' licenses—Identicators.
46.23 Nonresident violator compact.
46.37 Vehicle lighting and other equipment.
46.52 Accidents—Reports—Abandoned vehicles.
46.61 Rules of the road.
46.63 Disposition of traffic infractions.
46.64 Enforcement.
46.68 Disposition of revenue.
46.71 Automotive repair.
46.85 Reciprocal or proportional registration of vehicles.
46.90 Washington model traffic ordinance.

Chapter 46.04 DEFINITIONS

Sections
46.04.071 Bicycle.

46.04.071 Bicycle. "Bicycle" means every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels either of which is sixteen inches or more in diameter, or three wheels, any one of which is more than twenty inches in diameter. [1982 c 55 § 4; 1965 ex.s. c 155 § 86.]

Chapter 46.08 GENERAL PROVISIONS

Sections
46.08.066 Publicly owned vehicles—Confidential license plates—Issuance, rules governing—Review by legislative auditor.

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 licensing 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 licensing 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. [1982 c 163 § 14; 1979 c 158 § 128; 1975 1st ex.s. c 169 § 2.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Chapter 46.10 SNOWMOBILES

Sections
46.10.020 Ownership, transport, or operation of snowmobile without registration prohibited.
46.10.040 Application for registration—Fee—Registration number—Term—Renewal—Transfer—Nonresident permit—Decals.
46.10.043 Registration or transfer of registration pursuant to sale by dealer—Temporary registration.
46.10.050 Snowmobile dealers' registration—Fee—Dealer number plates, use—Sale or demonstration unlawful without registration.
46.10.055 Denial, suspension, or revocation of dealer registration or assessment of monetary civil penalty, when.
46.10.075 Snowmobile account—Deposits—Appropriations, use.
46.10.080 Distribution of snowmobile registration fees, civil penalties, and fuel tax moneys.
46.10.190 Violations as traffic infractions—Exceptions—Civil liability.

46.10.020 Ownership, transport, or operation of snowmobile without registration prohibited. (1) Except as provided in this chapter, no person shall own, transport, or operate any snowmobile within this state unless such snowmobile has been registered in accordance with the provisions of this chapter.

(2) A registration number shall be assigned, without payment of a fee, to snowmobiles owned by the state of Washington or its political subdivisions, and the assigned registration number shall be displayed upon each snowmobile in such manner as provided by rules adopted by the department. [1982 c 17 § 1; 1979 ex.s. c 182 § 3; 1971 ex.s. c 29 § 2.]

46.10.040 Application for registration—Fee—Registration number—Term—Renewal—Transfer—Nonresident permit—Decals. Application for registration shall be made to the department in such manner and upon such forms as the department shall prescribe, and shall state the name and address of each owner of the snowmobile to be registered, and shall be signed by at least one such owner, and shall be accompanied by a registration fee of ten dollars. Upon receipt of the application and the application fee, such snowmobile shall be registered and a registration number assigned, which shall be affixed to the snowmobile in a manner provided in RCW 46.10.070.

The registration provided in this section shall be valid for a period of one year. At the end of such period of registration, every owner of a snowmobile in this state shall renew his registration in such manner as the department shall prescribe, for an additional period of one year, upon payment of a renewal fee of ten dollars.

Any person acquiring a snowmobile already validly registered under the provisions of this chapter must, within ten days of the acquisition or purchase of such

snowmobile, make application to the department for transfer of such registration, and such application shall be accompanied by a transfer fee of one dollar.

A snowmobile owned by a resident of another state where registration is not required by law may be issued a nonresident registration permit valid for not more than sixty days. Application for such a permit shall state the name and address of each owner of the snowmobile to be registered and shall be signed by at least one such owner and shall be accompanied by a registration fee of five dollars. The registration permit shall be carried on the vehicle at all times during its operation in this state.

The registration fees provided in this section shall be in lieu of any personal property or excise tax heretofore imposed on snowmobiles by this state or any political subdivision thereof, and no city, county, or other municipality, and no state agency shall hereafter impose any other registration or license fee on any snowmobile in this state.

The department shall make available a pair of uniform decals consistent with the provisions of RCW 46.10.070 as now or hereafter amended. In addition to the registration fee provided herein the department shall charge each applicant for registration the actual cost of said decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals. [1982 c 17 § 2; 1979 ex.s. c 182 § 5; 1973 1st ex.s. c 128 § 1; 1972 ex.s. c 153 § 20; 1971 ex.s. c 29 § 4.]

Purpose (including policy statement as to certain state lands)—1972 ex.s. c 153: See RCW 67.32.080.

46.10.043 Registration or transfer of registration pursuant to sale by dealer—Temporary registration. 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.

All registrations for snowmobiles must be valid for the current registration period prior to the transfer of any registration, including assignment to a dealer. Upon the sale of a snowmobile by a dealer, the dealer may issue a temporary registration as provided by rules adopted by the department. [1982 c 17 § 3; 1979 ex.s. c 182 § 6; 1975 1st ex.s. c 181 § 4.]

46.10.050 Snowmobile dealers' registration—Fee—Dealer number plates, use—Sale or demonstration unlawful without registration. (1) Each dealer of snowmobiles in this state shall register with the department in such manner and upon such forms as the department shall prescribe. Upon receipt of a dealer's application for registration and the registration fee provided for in subsection (2) of this section, such dealer shall be registered and a registration number assigned.

(2) The registration fee for dealers shall be twenty-five dollars per year, and such fee shall cover all of the snowmobiles owned by a dealer for other than personal use and not rented on a regular, commercial basis: *Provided*, That snowmobiles rented on a regular commercial basis by a dealer shall be registered separately under the provisions of RCW 46.10.020, 46.10.040, 46.10.060, and 46.10.070.

(3) Upon registration each dealer shall purchase, at a cost to be determined by the department, dealer number plates of a size and color to be determined by the department, which shall contain the registration number assigned to that dealer. Each snowmobile operated by a dealer for the purposes enumerated in subsection (2) of this section shall display such number plates in a clearly visible manner.

(4) No person other than a dealer or a representative thereof shall display a dealer number plate, and no dealer or a representative thereof shall use a dealer's number plate for any purpose other than the purposes described in subsection (2) of this section.

(5) Dealer registration numbers shall be nontransferable.

(6) It shall be unlawful for any dealer to sell any snowmobile at wholesale or retail, or to test or demonstrate any snowmobile, within the state, unless registered in accordance with the provisions of this section. [1982 c 17 § 5; 1971 ex.s. c 29 § 5.]

46.10.055 Denial, suspension, or revocation of dealer registration or assessment of monetary civil penalty, when. The director may by order deny, suspend, or revoke the registration of any snowmobile dealer or, in lieu thereof or in addition thereto, may by order assess monetary civil penalties not to exceed five hundred dollars per violation, if the director finds that the order is in the public interest and that the applicant or registrant, or any partner, officer, director, or owner of ten percent of the assets of the firm, or any employee or agent:

(1) Has failed to comply with the applicable provisions of this chapter or any rules adopted under this chapter; or

(2) Has failed to pay any monetary civil penalty assessed by the director under this section within ten days after the assessment becomes final. [1982 c 17 § 4.]

46.10.075 Snowmobile account—Deposits—Appropriations, use. There is created a snowmobile account within the general fund. Snowmobile registration fees, monetary civil penalties from snowmobile dealers, and snowmobile fuel tax moneys collected under this chapter and in excess of the amounts fixed for the administration of the registration and fuel tax provisions of this chapter shall be deposited in the snowmobile account and shall be appropriated only to the state parks and recreation commission for the administration and coordination of this chapter. [1982 c 17 § 6; 1979 ex.s. c 182 § 7.]

46.10.080 Distribution of snowmobile registration fees, civil penalties, and fuel tax moneys. The moneys

collected by the department as snowmobile registration fees, monetary civil penalties from snowmobile dealers, and fuel tax moneys placed in the snowmobile account shall be distributed in the following manner:

(1) Actual expenses not to exceed three percent for each year shall be retained by the department to cover expenses incurred in the administration of the registration and fuel tax provisions of this chapter.

(2) The remainder of such funds each year shall be remitted to the state treasurer to be deposited in the snowmobile account of the general fund and shall be appropriated only to the commission to be expended for snowmobile purposes. Such purposes may include but not necessarily be limited to the administration, acquisition, development, operation, and maintenance of snowmobile facilities and development and implementation of snowmobile safety, enforcement, and education programs.

(3) Nothing in this section is intended to discourage any public agency in this state from developing and implementing snowmobile programs. The commission is authorized to make grants to public agencies and to contract with any public or private agency or person for the purpose of developing and implementing snowmobile programs, provided that the programs are not inconsistent with the rules adopted by the commission. [1982 c 17 § 7; 1979 ex.s. c 182 § 8; 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 (including policy statement as to certain state lands)—1972 ex.s. c 153: See RCW 67.32.080.

46.10.190 Violations as traffic infractions—Exceptions—Civil liability. (1) Except as provided in RCW 46.10.090(2), 46.10.055, and 46.10.130, any violation of the provisions of this chapter is a traffic infraction: *Provided*, That the penalty for failing to display a valid registration decal under RCW 46.10.090 as now or hereafter amended shall be a fine of forty dollars and such fine shall be remitted to the general fund of the governmental unit, which personnel issued the citation, for expenditure solely for snowmobile law enforcement.

(2) In addition to the penalties provided in RCW 46.10.090 and 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. [1982 c 17 § 8; 1980 c 148 § 2. Prior: 1979 ex.s. c 182 § 14; 1979 ex.s. c 136 § 44; 1975 1st ex.s. c 181 § 6; 1971 ex.s. c 29 § 19.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.12 CERTIFICATES OF OWNERSHIP AND REGISTRATION

Sections

46.12.370 Lists of registered and legal owners of vehicles—
Furnished for certain purposes—Penalty for unauthorized use.

46.12.370 Lists of registered and legal owners of vehicles—Furnished for certain purposes—Penalty for unauthorized use. In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used to enable those manufacturers to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. sec. 1382–1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor; or

(3) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing. In the event a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in subsections (1), (2) and (3) of this section, the manufacturer, governmental agency, financial institution or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing. [1982 c 215 § 1.]

Chapter 46.16 VEHICLE LICENSES

Sections

46.16.215 Renewal, payment of parking fines required—Distribution of fines, penalties, and surcharges—Change of registered owner—Statement of unpaid parking fines to registered owners. (Effective July 1, 1984.)

46.16.310 Antique vehicles—"Horseless carriage" licenses.

46.16.215 Renewal, payment of parking fines required—Distribution of fines, penalties, and surcharges—Change of registered owner—Statement of unpaid parking fines to registered owners. (Effective July 1, 1984.) (1) To renew a vehicle license, an applicant shall satisfy all standing, stopping, and parking violations for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the

department pursuant to RCW 46.20.270(3) since the vehicle's license was last issued or renewed. The renewal application may be processed by the director or his agents only if the applicant both:

(a) Presents a preprinted renewal application, or in the absence of such presentation, the agent, at his discretion, verifies the information which would be contained on the preprinted renewal application; and

(b) Presents either proof of payment on a form provided by the department or payment of the total fines and penalties stated on the preprinted renewal application and, in the case of payment, payment of a twenty-five percent surcharge thereon.

(2) The twenty-five percent surcharge referred to in subsection (1) of this section shall be allocated as follows:

(a) Eighty percent to the department of licensing; and

(b) Twenty percent to the agent handling the renewal application to be used by the agent for the administration of this section.

(3) All fines, penalties, and surcharges collected under subsection (1) of this section, with the exception of twenty percent of the surcharge collected by and for the agent, shall be forwarded to the director with a proper identifying detailed report, who shall transmit the accounts [amounts] from fines and penalties to the local charging jurisdictions. Amounts from the percentage of the surcharge received shall be deposited in the general fund to be used exclusively for the administrative costs of the department of licensing and its agents in implementing this section.

(4) If there is a change in the registered owner of the vehicle, the department shall forward such information regarding the change to the local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations incurred while the certificate of license registration was in a prior registered owner's name.

(5) The department shall send to all registered owners of vehicles who have been reported to have outstanding parking violations, at the time of renewal, a statement listing the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating thereto and the surcharge to be collected. The preprinted renewal application shall state the total amount of such fines and of the surcharge. [1982 1st ex.s. c 14 § 1.]

Effective date—1982 1st ex.s. c 14: "This act shall take effect on July 1, 1984, and shall apply to violations of traffic laws committed on or after July 1, 1984." [1982 1st ex.s. c 14 § 7.]

Severability—1982 1st ex.s. c 14: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 14 § 6.]

46.16.310 Antique vehicles—"Horseless carriage" licenses. Notwithstanding any other provisions of this chapter, any motor vehicle which is not less than 40 years old and owned and operated primarily as a collector's item shall, upon application and acceptance in the manner and at the time prescribed by the department, be issued a special commemorative license plate in

lieu of the regular license plates. Any vehicles to be so licensed must be in good running order. In addition to paying all other initial fees required by law, each applicant shall pay a fee of twenty-five dollars, which fee shall entitle him to one permanent license plate valid for the life of the vehicle.

The registration numbers and special license plates assigned to such motor vehicles shall run in a separate numerical series, commencing with "Horseless Carriage No. 1." The plates shall be of a distinguishing color.

In the event of defacement, loss, or destruction of such special plate, the owner shall apply for a replacement plate in the same manner as prescribed by law for the replacement of regular plates.

All fees collected under this section shall be deposited in the state treasury and credited to the motor vehicle fund. [1982 c 143 § 1; 1971 ex.s. c 114 § 1; 1961 c 12 § 46.16.310. Prior: 1955 c 100 § 1.]

Severability—1971 ex.s. c 114: "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 114 § 6.]

Chapter 46.20

DRIVERS' LICENSES—IDENTICARDS

Sections

46.20.270	Conviction of mandatory license suspension or revocation offense—Procedure—Court to forward records of convictions or traffic infractions—Municipalities to report parking violations—Terms defined. (Effective July 1, 1984.)
46.20.311	Duration of suspension or revocation—Conditions for reissuance or renewal.
46.20.329	Formal hearing—Time and place—Notice—Stay of suspension or revocation pending hearing or subsequent appeal—Exception—Director or appointee to conduct hearing.
46.20.331	Director's designees to preside over hearings.
46.20.435	Impoundment of vehicle for driver's license violations—Release, when—Rules implementing.
46.20.500	Special endorsement for motorcycle operator's license—Moped exception.
46.20.505	Special endorsement for motorcycle operator's license—Examination fee, amount and distribution of.
46.20.510	Special endorsement for motorcycle operator's license—Categories—Instruction permits.
46.20.515	Motorcycle endorsement examination—Emphasis.
46.20.520	Motorcycle operator training and education program—Advisory committee.

46.20.270 Conviction of mandatory license suspension or revocation offense—Procedure—Court to forward records of convictions or traffic infractions—Municipalities to report parking violations—Terms defined. (Effective July 1, 1984.) (1) Whenever any person is convicted of any offense for which this title makes mandatory the suspension or revocation of the driver's license of such person by the department, the privilege of the person to operate a vehicle is suspended until the department takes the action required by this chapter, and the court in which such conviction is had shall forthwith secure the immediate forfeiture of the driver's

license of such convicted person and immediately forward such driver's license to the department, and on failure of such convicted person to deliver such driver's license the judge shall cause such person to be confined for the period of such suspension or revocation or until such driver's license is delivered to such judge: *Provided*, That if the convicted person testifies that he or she does not and at the time of the offense did not have a current and valid vehicle driver's license, the judge shall cause such person to be charged with the operation of a motor vehicle without a current and valid driver's license and on conviction punished as by law provided, and the department may not issue a driver's license to such persons during the period of suspension or revocation: *Provided, also*, That if the driver's license of such convicted person has been lost or destroyed and such convicted person makes an affidavit to that effect, sworn to before the judge, the convicted person may not be so confined, but the department may not issue or reissue a driver's license for such convicted person during the period of such suspension or revocation: *Provided*, That perfection of notice of appeal shall stay the execution of sentence including the suspension and/or revocation of the driver's license.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations within this state, shall forward to the department within ten days of a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine or penalty, a plea of guilty or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(3) Every municipality having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, may forward to the department within ten days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, or parking, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that three or more violations of laws governing standing, stopping, and parking have been committed and indicating the nature of the defendant's failure to act. Such violations may not have occurred while the vehicle is stolen from the registered owner or is leased or rented under a bona fide commercial vehicle lease or rental agreement between a lessor engaged in

the business of leasing vehicles and a lessee who is not the vehicle's registered owner. The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(4) For the purposes of Title 46 RCW the term "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence is deferred or the penalty is suspended.

(5) For the purposes of Title 46 RCW the term "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding. [1982 1st ex.s. c 14 § 5; 1979 ex.s. c 136 § 58; 1979 c 61 § 7; 1977 ex.s. c 3 § 1; 1967 ex.s. c 145 § 55; 1965 ex.s. c 121 § 22; 1961 c 12 § 46.20.270. Prior: 1937 c 188 § 68; RRS § 6312-68; prior: 1923 c 122 § 2, part; 1921 c 108 § 9, part; RRS § 6371, part.]

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.16.215.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1967 ex.s. c 145: See RCW 47.98.043.

46.20.311 Duration of suspension or revocation—Conditions for reissuance or renewal. (1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342. Whenever the license of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, or pursuant to RCW 46.20.291, such suspension shall remain in effect and the department shall not issue to such person any new or renewal of license until such person shall pay a reinstatement fee of twenty dollars and shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of six months in cases of revocation for refusal to submit to a chemical test under the provisions of RCW 46.20-.308 as now or hereafter amended, and in all other revocation cases after the expiration of one year from the date on which the revoked license was surrendered to and received by the department, such person may make application for a new license as provided by law together with an additional fee in the amount of twenty dollars,

but the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until such person shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW. A resident without a license or permit whose license or permit was denied under RCW 46.20.308(3) shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020, the suspension shall remain in effect and the department shall not issue to the person any new or renewal license until the person shall pay a reinstatement fee of twenty dollars. [1982 c 212 § 5; 1981 c 91 § 1; 1979 ex.s. c 136 § 60; 1973 1st ex.s. c 36 § 1; 1969 c 1 § 2 (Initiative Measure No. 242 § 2); 1967 c 167 § 5; 1965 ex.s. c 121 § 27.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1969 c 1: See RCW 46.20.911.

46.20.329 Formal hearing—Time and place—Notice—Stay of suspension or revocation pending hearing or subsequent appeal—Exception—Director or appointee to conduct hearing. Upon receiving a request for a formal hearing as provided in RCW 46.20.328, the department shall fix a time and place for hearing as early as may be arranged in the county where the applicant or licensee resides, and shall give ten days' notice of the hearing to the applicant or licensee, except that the hearing may be set for a different place with the concurrence of the applicant or licensee and the period of notice may be waived.

Any decision by the department suspending or 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 of a moving violation or a finding that the person has committed a traffic infraction which is a moving violation during pendency of hearing and appeal: *Provided further*, That nothing in this section shall be construed as prohibiting the department from seeking an order setting aside the stay during the pendency of such appeal in those cases where the action of the department is based upon physical or mental incapacity, or a failure to successfully complete an examination required by this chapter.

A formal hearing shall be conducted by the director or by a person or persons appointed by the director from among the employees of the department. [1982 c 189 § 4; 1981 c 67 § 28; 1979 ex.s. c 136 § 61; 1972 ex.s. c 29 § 1; 1965 ex.s. c 121 § 36.]

Effective date—1982 c 189: See note following RCW 34.12.020.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.20.331 Director's designees to preside over hearings. The director may appoint a designee, or designees, to preside over hearings in contested cases which may result in the denial, restriction, suspension, or revocation of a driver's license or driving privilege, or in the imposition of requirements to be met prior to issuance or reissuance of a driver's license, under Title 46 RCW. The director may delegate to any such designees the authority to render the final decision of the department in such cases. Chapter 34.12 RCW shall not apply to such cases. [1982 c 189 § 3.]

Effective date—1982 c 189: See note following RCW 34.12.020.

46.20.435 Impoundment of vehicle for driver's license violations—Release, when—Rules implementing. (1) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.021 or with a license that has been expired for ninety days or more, or with a suspended or revoked license in violation of RCW 46.20.342 or 46.20.420, a law enforcement officer may immediately impound the vehicle which the person is operating.

(2) If the driver of the vehicle is the owner of the vehicle, the department shall not release the vehicle impounded under subsection (1) of this section until the owner of the vehicle:

(a) Establishes to the department that any penalties, fines, or forfeitures owed by the person driving the vehicle when it was impounded have been satisfied; and

(b) Pays to the person who impounded and stored the vehicle the reasonable costs of such impoundment and storage.

(3) If the driver of the vehicle is not the owner of the vehicle, the driver shall be responsible for any penalties, fines, or forfeitures owed or due and for the costs of impoundment and storage. The vehicle shall be released to the owner upon proof of such ownership.

(4) The department shall adopt such rules as are necessary for the administration of this section. [1982 c 8 § 1.]

Severability—1982 c 8: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 8 § 2.]

46.20.500 Special endorsement for motorcycle operator's license—Moped exception. No person may drive a motorcycle or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles, nor may a person drive a motorcycle of a larger engine displacement than that authorized by such special endorsement or by an instruction permit for such category: *Provided*, That any person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped. [1982 c 77 § 1; 1979 ex.s. c 213 § 6; 1967 c 232 § 1.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Severability—1982 c 77: "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." [1982 c 77 § 10.]

Mopeds

*operation and safety standards: RCW 46.61.710, 46.61.720.
registration: RCW 46.16.630.*

46.20.505 Special endorsement for motorcycle operator's license—Examination fee, amount and distribution of. Every person applying for a special endorsement or a new category of endorsement of a driver's license authorizing such person to drive a motorcycle or a motor-driven cycle shall pay a motorcycle examination fee which is not refundable. The director of licensing shall prescribe the examination fee at an amount equal to the cost of administering such examination, but in no event more than four dollars for the initial or new category examination nor more than two dollars for a subsequent renewal examination. One dollar of the initial or new category examination fee and one dollar of any subsequent fee for a renewal shall be deposited in the motorcycle safety education account of the highway safety fund. [1982 c 77 § 2; 1979 c 158 § 153; 1967 ex.s. c 145 § 50.]

Severability—1982 c 77: See note following RCW 46.20.500.

Severability—1967 ex.s. c 145: See RCW 47.98.043.

46.20.510 Special endorsement for motorcycle operator's license—Categories—Instruction permits. (1) There shall be three categories for the special motorcycle endorsement of a driver's license. Category one shall be for motorcycles or motor-driven cycles having an engine displacement of one hundred fifty cubic centimeters or less. Category two shall be for motorcycles having an engine displacement of five hundred cubic centimeters or less. Category three shall include categories one and two, and shall be for motorcycles having an engine displacement of five hundred one cubic centimeters or more.

(2) A motorcycle endorsement issued prior to June 10, 1982, is deemed to be for category three. Thereafter, a person first seeking a motorcycle endorsement or a person seeking an endorsement to operate a motorcycle with an engine displacement of a higher category than the one covered by his or her existing endorsement, shall obtain an endorsement for the appropriate category pursuant to RCW 46.20.505 through 46.20.515.

(3) The department may issue an instruction permit to an individual who wishes to learn to ride a motorcycle or obtain an endorsement of a larger endorsement category. This permit and a valid driver's license with current endorsement, if any, shall be carried when operating a motorcycle. An individual with an instruction permit may not carry passengers, may not operate a motorcycle during the hours of darkness or on a fully controlled, limited access facility, and shall be under the direct visual supervision of a person with a motorcycle endorsement of the appropriate category. [1982 c 77 § 3.]

Severability—1982 c 77: See note following RCW 46.20.500.

46.20.515 Motorcycle endorsement examination—Emphasis. The motorcycle endorsement examination for each displacement category shall emphasize maneuvers necessary for on-street operation, including emergency braking and turning as may be required to avoid an impending collision. [1982 c 77 § 4.]

Severability—1982 c 77: See note following RCW 46.20.500.

46.20.520 Motorcycle operator training and education program—Advisory committee. (1) The director of licensing shall use moneys designated for the motorcycle safety education account of the highway safety fund to implement by July 1, 1983, a voluntary motorcycle operator training and education program. The director may contract with public and private entities to implement this program.

(2) There is created a motorcycle safety education advisory committee to assist the director of licensing in the development of a motorcycle operator training education program. The committee shall monitor this program following implementation and report to the director of licensing as necessary with recommendations including, but not limited to, administration, application, and substance of the motorcycle operator training and education program.

The committee shall consist of five members appointed by the director of licensing. Three members of the committee, one of whom shall be appointed chairman, shall be active motorcycle riders. The term of appointment shall be determined by the director. The committee shall meet at the call of the director and shall receive no compensation for their services but shall be reimbursed their travel expenses while engaged in business of the committee in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) The director of licensing shall submit a proposed motorcycle operator training and education program to the legislative transportation committee for review and approval on or before April 1, 1983. [1982 c 77 § 5.]

Severability—1982 c 77: See note following RCW 46.20.500.

Chapter 46.23

NONRESIDENT VIOLATOR COMPACT

Sections

46.23.010	Compact established—Provisions.
46.23.020	Reciprocal agreements authorized—Provisions.
46.23.030	Progress reports.
46.23.040	Review of agreement by legislative transportation committee.
46.23.050	Rules.

46.23.010 Compact established—Provisions. The nonresident violator compact, hereinafter called "the compact," is hereby established in the form substantially as follows, and the Washington state department of licensing is authorized to enter into such compact with all other jurisdictions legally joining therein:

NONRESIDENT VIOLATOR COMPACT
Article I — Findings, Declaration of Policy, and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction: Must post collateral or bond to secure appearance for trial at a later date; or if unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or is taken directly to court for his trial to be held.

(2) In some instances, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to him [his] home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above, causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as described in paragraph (2) above, is viewed with disfavor.

(7) The practices described herein consume an undue amount of law enforcement time.

(b) It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in

recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

Article II — Definitions

As used in the compact, the following words have the meaning indicated, unless the context requires otherwise.

(1) "Citation" means any summons, ticket, notice of infraction, or other official document issued by a police officer for a traffic offense containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic offense.

(3) "Court" means a court of law or traffic tribunal.

(4) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(5) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(7) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(9) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(10) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic offense.

(11) "Terms of the citation" means those options expressly stated upon the citation.

Article III — Procedure for Issuing Jurisdiction

(a) When issuing a citation for a traffic violation or infraction, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it must take place immediately following issuance of the citation.

(c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and insofar as practical shall contain information as specified in the compact manual as minimum requirements for effective processing by the home jurisdiction.

(d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist the information in a form and content substantially conforming to the compact manual.

(e) The licensing authority of the issuing jurisdiction may not suspend the privilege of a motorist for whom a report has been transmitted.

(f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

Article IV — Procedure for Home Jurisdiction

(a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

Article V — Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to licenses to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party jurisdiction and a nonparty jurisdiction.

Article VI — Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the

board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(c) The board shall elect annually, from its membership, a chairman and a vice chairman.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize, and dispose of the same.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, person, firm, or corporation, or any private non-profit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

Article VII — Entry into Compact and Withdrawal

(a) This compact shall become effective when it has been adopted by at least two jurisdictions.

(b) Entry into the compact shall be made by a resolution of ratification executed by the department of licensing and submitted to the chairman of the board. The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(1) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(2) Agreement to comply with the terms and provisions of the compact.

(3) That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(c) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than sixty days after notice has been given by the chairman of the board of compact administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(d) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

Article VIII — Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

Article IX — Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact chairman within one hundred twenty days after receipt of the proposed amendment shall constitute endorsement.

Article X — Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party jurisdiction or of the United States or the applicability thereof to any government, agency, person, or circumstance, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

Article XI — Title

This compact shall be known as the nonresident violator compact. [1982 c 212 § 1.]

46.23.020 Reciprocal agreements authorized—Provisions. (1) The Washington state department of licensing is authorized and encouraged to execute a reciprocal agreement with the Canadian province of British Columbia, and with any other state which is not a member of the nonresident violator compact, concerning the rendering of mutual assistance in the disposition of traffic infractions committed by persons licensed in one state or province while in the jurisdiction of the other.

(2) Such agreements shall provide that if a person licensed by either state or province is issued a citation by the other state or province for a moving traffic violation covered by the agreement, he shall not be detained or required to furnish bail or collateral, and that if he fails to comply with the terms of the citation, his license shall be suspended or renewal refused by the state or province that issued the license until the home jurisdiction is notified by the issuing jurisdiction that he has complied with the terms of the citation.

(3) Such agreement shall also provide such terms and procedures as are necessary and proper to facilitate its administration. [1982 c 212 § 2.]

46.23.030 Progress reports. The department of licensing shall report annually by October first to the legislative transportation committee on its progress in entering into the nonresident violators compact and in attaining similar agreements with British Columbia and other nonmember states. [1982 c 212 § 3.]

46.23.040 Review of agreement by legislative transportation committee. Before any agreement made pursuant to RCW 46.23.010 or 46.23.020 may be formally executed and become effective, it shall first be submitted for review by the legislative transportation committee. [1982 c 212 § 4.]

46.23.050 Rules. The department shall adopt rules for the administration and enforcement of RCW 46.23.010 and 46.23.020 in accordance with chapter 34-.04 RCW. [1982 c 212 § 6.]

Chapter 46.37

VEHICLE LIGHTING AND OTHER EQUIPMENT

Sections

46.37.005	Commission on equipment—Powers and duties.
46.37.190	Red lights on emergency vehicles, school buses, private carrier buses—Colored lights and sirens on emergency and law enforcement vehicles—Driver's duty to yield and stop.
46.37.527	Motorcycles and motor-driven cycles—Brake requirements.
46.37.530	Motorcycles or motor-driven cycles—Mirrors, glasses, goggles, face shields, and helmets—Regulations and specifications by state commission on equipment.

46.37.005 Commission on equipment—Powers and duties. There is constituted a state commission on equipment which shall consist of the director of the department of licensing, the chief of the Washington state patrol, and the secretary of transportation, or, when duly designated, their respective deputy director, deputy chief, deputy or assistant secretary. The chief of the Washington state patrol shall act as the chairman of the state commission on equipment. He shall appoint either the director of licensing or the secretary of transportation to serve as vice-chairman in his absence. The chairman or the designated vice-chairman must be present at each meeting of the commission. The chief shall appoint a person under his supervision to act as secretary of the state commission on equipment who shall be responsible for the issuance of rules and regulations adopted by the commission, for the issuance of certificates of approval for vehicle equipment requiring approval and letters of appointment to tow operators, and for the administration of such other business of the commission on equipment as the commission shall specify.

In addition to those powers and duties elsewhere granted by the provisions of this title the state commission on equipment shall have the power and the duty to

adopt, apply and enforce such reasonable rules and regulations (1) relating to proper types of vehicles or combinations thereof for hauling passengers, commodities, freight and supplies, (2) relating to vehicle equipment, and (3) relating to the enforcement of the provisions of this title with regard to vehicle equipment, as may be deemed necessary for the public welfare and safety in addition to but not inconsistent with the provisions of this title.

The state commission on equipment is authorized to adopt by regulation, federal standards relating to motor vehicles and vehicle equipment, issued pursuant to the National Traffic and Motor Vehicle Safety Act of 1966, or any amendment to said act, notwithstanding any provision in Title 46 RCW inconsistent with such standards. Federal standards adopted pursuant to this section shall be applicable only to vehicles manufactured in a model year following the adoption of such standards. [1982 c 106 § 1; 1967 ex.s. c 145 § 56; 1967 c 32 § 49; 1961 c 12 § 46.37.005. Prior: 1943 c 133 § 1; 1937 c 189 § 6; Rem. Supp. 1943 § 6360-6; 1927 c 309 § 14, part; RRS § 6362-14, part. Formerly RCW 46.36.010.]

Severability—1967 ex.s. c 145: See RCW 47.98.043.

Towing operators, appointment of: RCW 46.61.567.

46.37.190 Red lights on emergency vehicles, school buses, private carrier buses—Colored lights and sirens on emergency and law enforcement vehicles—Driver's duty to yield and stop. (1) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive marking required by this chapter, be equipped with at least one lamp capable of displaying a red light visible from at least five hundred feet in normal sunlight and a siren capable of giving an audible signal.

(2) Every school bus and private carrier bus shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a "stop" signal upon a background not less than fourteen by eighteen inches displaying the word "stop" in letters of distinctly contrasting colors not less than eight inches high, and shall further be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level and these lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight.

(3) Vehicles operated by public agencies whose law enforcement duties include the authority to stop and detain motor vehicles on the public highways of the state may be equipped with a siren and lights of a color and type designated by the commission on equipment for that purpose. The commission may prohibit the use of these sirens and lights on vehicles other than the vehicles described in this subsection.

(4) The lights described in this section shall not be mounted nor used on any vehicle other than a school bus, a private carrier bus, or an authorized emergency or law enforcement vehicle.

(5) The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right of way and stop as prescribed in RCW 46.61.210, 46.61.370, and 46.61.350. [1982 c 101 § 1; 1971 ex.s. c 92 § 1; 1970 ex.s. c 100 § 5; 1965 ex.s. c 155 § 53; 1963 c 154 § 14; 1961 c 12 § 46.37.190. Prior: 1957 c 66 § 1; 1955 c 269 § 19.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

46.37.527 Motorcycles and motor-driven cycles—Brake requirements. Every motorcycle and motor-driven cycle must comply with the provisions of RCW 46.37-.351, except that:

(1) Motorcycles and motor-driven cycles need not be equipped with parking brakes;

(2) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle need not be equipped with brakes, if such motorcycle or motor-driven cycle is otherwise capable of complying with the braking performance requirements of RCW 46.37.528 and 46.37.529;

(3) Motorcycles shall be equipped with brakes operating on both the front and rear wheels unless the vehicle was originally manufactured without both front and rear brakes: *Provided*, That a front brake shall not be required on any motorcycle over twenty-five years old which was originally manufactured without a front brake and which has been restored to its original condition and is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show or other such assemblage: *Provided further*, That no front brake shall be required on any motorcycle manufactured prior to January 1, 1931. [1982 c 77 § 6; 1977 ex.s. c 355 § 49.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Severability—1982 c 77: See note following RCW 46.20.500.

Severability—1977 ex.s. c 355: See note following RCW 46.37.010.

46.37.530 Motorcycles or motor-driven cycles—Mirrors, glasses, goggles, face shields, and helmets—Regulations and specifications by state commission on equipment. (1) It is unlawful:

(a) For any person to operate a motorcycle or motor-driven cycle not equipped with mirrors on the left and right sides of the motorcycle which shall be so located as to give the driver a complete view of the highway for a distance of at least two hundred feet to the rear of the motorcycle or motor-driven cycle: *Provided*, That mirrors shall not be required on any motorcycle or motor-driven cycle over twenty-five years old originally manufactured without mirrors and which has been restored to its original condition and which is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show or other such assemblage: *Provided further*, That no mirror shall be required on any motorcycle manufactured prior to January 1, 1931;

(b) For any person to operate a motorcycle or motor-driven cycle which does not have a windshield unless

wearing glasses, goggles, or a face shield of a type approved by the state commission on equipment;

(c) For any person to sell or offer for sale a motorcycle helmet which does not meet the requirements established by the state commission on equipment.

(2) The state commission on equipment is hereby authorized and empowered to adopt and amend regulations, pursuant to the administrative procedure act, concerning the standards and procedures for approval of glasses, goggles, face shields, and protective helmets. The state commission on equipment shall maintain and publish a list of those devices which the commission on equipment has approved. [1982 c 77 § 7; 1977 ex.s. c 355 § 55; 1971 ex.s. c 150 § 1; 1969 c 42 § 1; 1967 c 232 § 4.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Severability—1982 c 77: See note following RCW 46.20.500.

Severability—1977 ex.s. c 355: See note following RCW 46.37.010.

Maximum height for handlebars: RCW 46.61.611.

Riding on motorcycles: RCW 46.61.610.

Chapter 46.52

ACCIDENTS—REPORTS—ABANDONED VEHICLES

Sections

46.52.120 Case record of convictions and traffic infractions—
Cross reference to accident reports.

46.52.120 Case record of convictions and traffic infractions—Cross reference to accident reports. (1) It shall be the duty of the director to keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each, showing all the convictions and findings of traffic infractions certified by the courts and an index cross reference record of each accident reported relating to such individuals with a brief statement of the cause of such accident, which index cross reference record shall be furnished to the director by the chief of the Washington state patrol, with reference to each driver involved in the reported accidents.

(2) The case record shall be maintained in two parts.

(a) One part shall be the employment driving record of the person which shall include all motor vehicle accidents in which the person is involved while the person is driving a commercial motor vehicle as an employee of another, all convictions of the person for violation of the motor vehicle laws while the person is driving a commercial motor vehicle as an employee of another, and all findings that the person has committed a traffic infraction while the person is driving a commercial motor vehicle as an employee of another. The same reports shall be entered when the person is a law enforcement officer or fire fighter as defined in RCW 41.26.030, or a state patrol officer, and is driving an official police, state patrol, or fire department vehicle in the course of their official duties.

[1982 RCW Supp—page 392]

(b) The other part shall include all other accidents, convictions, and findings that the person has committed a traffic infraction.

(3) Such records shall be for the confidential use of the director and the chief of the Washington state patrol and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of director, suspending, revoking, canceling, or refusing vehicle driver's license.

(4) It shall be the duty of the director to tabulate and analyze vehicle driver's case records and to suspend, revoke, cancel, or refuse any vehicle driver's license to any person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. Whenever the director may order the vehicle driver's license of any such person suspended, revoked, or canceled, or shall refuse the issuance of vehicle driver's license, such suspension, revocation, cancellation, or refusal shall be final and effective unless appeal from the decision of the director shall be taken as provided by law. [1982 c 52 § 1; 1979 ex.s. c 136 § 83; 1977 ex.s. c 356 § 1; 1967 c 32 § 62; 1961 c 12 § 46-.52.120. Prior: 1937 c 189 § 144; RRS § 6360-144.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.61

RULES OF THE ROAD

Sections

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

46.61.024 Attempting to elude pursuing police vehicle.

DRIVING ON RIGHT SIDE OF ROADWAY—OVERTAKING AND PASSING—USE OF ROADWAY

46.61.160 Restrictions on use of limited-access highway—Use by bicyclists.

RECKLESS DRIVING, DRIVING WHILE INTOXICATED, AND NEGLIGENT HOMICIDE BY VEHICLE

46.61.515 Driving or being in physical control of motor vehicle while under the influence of intoxicating liquor or drugs—Penalties—Alcohol or drug problem, treatment—Penalty assessments in addition to fines, etc.—Suspension or revocation of license—Appeal.

OPERATION OF BICYCLES AND PLAY VEHICLES

46.61.750 Effect of regulations—Penalty.

46.61.758 Hand signals.

46.61.770 Riding on roadways and bicycle paths.

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

46.61.024 Attempting to elude pursuing police vehicle. Any driver of a motor vehicle who wilfully fails or refuses to immediately bring his vehicle to a stop and who drives his vehicle in a manner indicating a wanton or wilful disregard for the lives or property of others while attempting to elude a pursuing police vehicle, after

being given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a class C felony. The signal given by the police officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and his vehicle shall be appropriately marked showing it to be an official police vehicle. [1982 1st ex.s. c 47 § 25; 1979 ex.s. c 75 § 1.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.025.

DRIVING ON RIGHT SIDE OF ROADWAY— OVERTAKING AND PASSING—USE OF ROADWAY

46.61.160 Restrictions on use of limited-access highway—Use by bicyclists. The department of transportation may by order, and local authorities may by ordinance or resolution, with respect to any limited access highway under their respective jurisdictions prohibit the use of any such highway by funeral processions, or by parades, pedestrians, bicycles or other nonmotorized traffic, or by any person operating a motor-driven cycle. Bicyclists may use the right shoulder of limited-access highways except where prohibited. The department of transportation may by order, and local authorities may by ordinance or resolution, with respect to any limited-access highway under their respective jurisdictions prohibit the use of the shoulders of any such highway by bicycles within urban areas or upon other sections of the highway where such use is deemed to be unsafe.

The department of transportation 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 may disobey the restrictions stated on such devices. [1982 c 55 § 5; 1975 c 62 § 25; 1965 ex.s. c 155 § 27.]

Severability—1975 c 62: See note following RCW 36.75.010.

RECKLESS DRIVING, DRIVING WHILE INTOXICATED, AND NEGLIGENT HOMICIDE BY VEHICLE

46.61.515 Driving or being in physical control of motor vehicle while under the influence of intoxicating liquor or drugs—Penalties—Alcohol or drug problem, treatment—Penalty assessments in addition to fines, etc.—Suspension or revocation of license—Appeal.

(1) Every person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished by imprisonment for not less than twenty-four consecutive hours nor more than one year, and by a fine of not more than five hundred dollars. The person shall, in addition, be required to complete a course at an alcohol information school approved by the department of social and health services. If, after completing an alcohol evaluation at the alcohol information school, the convicted person is found to have a serious alcohol problem, the alcohol information school may recommend more intensive alcoholism treatment in a program approved by the department of

social and health services. In the alternative, the court may bypass alcohol information school if the court determines that more intensive alcoholism treatment in a program approved by the department of social and health services is appropriate. Standards for approval shall be prescribed by rule under the administrative procedure act, chapter 34.04 RCW. The courts shall periodically review the costs of alcohol information schools and treatment programs within their jurisdictions. Twenty-four consecutive hours of the jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. The court may impose conditions of probation that may include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate.

(2) On a second or subsequent conviction for driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs within a five year period a person shall be punished by imprisonment for not less than seven days nor more than one year and by a fine not more than one thousand dollars. The jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. 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 or deferred. The person shall, in addition, be required to complete diagnostic evaluation at an alcoholism program approved by the department of social and health services or other diagnostic evaluation as the court designates. If the person is found to have an alcohol or drug problem requiring treatment, the person shall complete treatment at an approved alcoholism treatment facility or approved drug treatment center.

In addition to any nonsuspendable and nondeferrable jail sentence required by this subsection, the court shall sentence a person to a term of imprisonment not exceeding one hundred eighty days and shall suspend but shall not defer the sentence for a period not exceeding two years. The suspension of the sentence may be conditioned upon nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of suspension during the suspension period.

(3) 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.

(4) Notwithstanding the provisions contained in chapters 3.16, 3.46, 3.50, 3.62, or 35.20 RCW, or any other section of law, the penalty assessment provided for in subsection (3) 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 (3) of this section.

(5) The license or permit to drive or any nonresident privilege of any person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs shall:

(a) On the first conviction under either such offense, be suspended by the department for not less than thirty days: *Provided*, That the court may recommend that no suspension action be taken. The treatment agency shall forward a copy of the completed diagnostic evaluation and treatment report to the department of licensing before the department may reinstate the person's driver's license. The department of licensing shall determine the person's eligibility for licensing based upon these reports and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified;

(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. The treatment agency shall forward a copy of the completed diagnostic evaluation and treatment report to the department of licensing before the department may reinstate the person's driver's license. The department of licensing shall determine the person's eligibility for licensing based upon these reports as provided in RCW 46.20.031 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified;

(c) On a third or subsequent conviction under either such offense within a five year period, be revoked by the department.

(6) 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. [1982 1st ex.s. c 47 § 27; 1979 ex.s. c 176 § 6; 1977 ex.s. c 3 § 3; 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—1982 1st ex.s. c 47: See note following RCW 9.41.025.

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

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.

OPERATION OF BICYCLES AND PLAY VEHICLES

46.61.750 Effect of regulations—Penalty. (1) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required in RCW 46.61-.750 through 46.61.780.

(2) These regulations applicable to bicycles apply whenever a bicycle is operated upon any highway or upon any bicycle path, subject to those exceptions stated herein. [1982 c 55 § 6; 1979 ex.s. c 136 § 92; 1965 ex.s. c 155 § 79.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

"Bicycle" defined: RCW 46.04.071.

46.61.758 Hand signals. All hand signals required of persons operating bicycles shall be given in the following manner:

(1) Left turn. Left hand and arm extended horizontally beyond the side of the bicycle;

(2) Right turn. Left hand and arm extended upward beyond the side of the bicycle, or right hand and arm extended horizontally to the right side of the bicycle;

(3) Stop or decrease speed. Left hand and arm extended downward beyond the side of the bicycle.

The hand signals required by this section shall be given before initiation of a turn. [1982 c 55 § 8.]

46.61.770 Riding on roadways and bicycle paths. (1) Every person operating a bicycle upon a roadway at a rate of speed less than the normal flow of traffic at the particular time and place shall ride as near to the right side of the right through lane as is safe except as may be appropriate while preparing to make or while making turning movements, or while overtaking and passing another bicycle or vehicle proceeding in the same direction. A person operating a bicycle upon a roadway or highway other than a limited-access highway, which roadway or highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near to the left side of the left through lane as is safe. A person operating a bicycle upon a roadway may use the shoulder of the roadway or any specially designated bicycle lane if such exists.

(2) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. [1982 c 55 § 7; 1974 ex.s. c 141 § 14; 1965 ex.s. c 155 § 83.]

*Rules of court: Monetary penalty schedule—JTIR 6.2.
Use of bicycles on limited-access highways: RCW 46.61.160.*

Chapter 46.63

DISPOSITION OF TRAFFIC INFRACTIONS

Sections

46.63.020	Violations as traffic infractions—Exceptions.
46.63.060	Notice of traffic infraction—Determination final unless contested—Form. (Effective July 1, 1984.)
46.63.070	Response to notice of traffic infraction—Contesting determination—Hearing—Failure to respond or appear. (Effective July 1, 1984.)
46.63.110	Monetary penalties (as amended by 1982 1st ex.s. c 12).
46.63.110	Monetary penalties (as amended by 1982 1st ex.s. c 14). (Effective July 1, 1984.)

46.63.020 Violations as traffic infractions—Exceptions. Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration;

(6) RCW 46.16.160 relating to vehicle trip permits;

(7) RCW 46.20.021 relating to driving without a valid driver's license;

(8) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(9) RCW 46.20.342 relating to driving with a suspended or revoked license;

(10) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(11) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(12) Chapter 46.29 RCW relating to financial responsibility;

(13) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(14) RCW 46.48.175 relating to the transportation of dangerous articles;

(15) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(16) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(17) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(18) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

(19) RCW 46.52.108 relating to disposal of abandoned vehicles or hulks;

(20) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company and an employer;

(21) RCW 46.52.210 relating to abandoned vehicles or hulks;

(22) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;

(23) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(24) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(25) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(26) RCW 46.61.500 relating to reckless driving;

(27) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

(28) RCW 46.61.520 relating to negligent homicide by motor vehicle;

(29) RCW 46.61.525 relating to negligent driving;

(30) RCW 46.61.530 relating to racing of vehicles on highways;

(31) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

(32) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

(33) RCW 46.64.020 relating to nonappearance after a written promise;

(34) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

(35) Chapter 46.65 RCW relating to habitual traffic offenders;

(36) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(37) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(38) Chapter 46.80 RCW relating to motor vehicle wreckers;

(39) Chapter 46.82 RCW relating to driver's training schools. [1982 c 10 § 12. Prior: 1981 c 318 § 2; 1981 c 19 § 1; 1980 c 148 § 7; 1979 ex.s. c 136 § 2.]

Severability—1982 c 10: See note following RCW 6.12.100.

Effective date—1980 c 148: See note following RCW 46.10.090.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.060 Notice of traffic infraction—Determination final unless contested—Form. (Effective July 1, 1984.) (1) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The form for the notice of traffic infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial; that the penalty for a traffic infraction related to standing, stopping, or parking may include nonrenewal of the vehicle license;

(c) A statement of the specific traffic infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the traffic infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within seven days or the person's driver's license will not be renewed by the department until any penalties imposed pursuant to this chapter have been satisfied;

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the refusal of the department to renew the person's driver's license, or in the case of a standing, stopping, or parking violation the vehicle license, until any penalties imposed pursuant to this chapter have been satisfied;

(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(k) A statement that failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine or imprisonment in jail. [1982 1st ex.s. c 14 § 2; 1980 c 128 § 1; 1979 ex.s. c 136 § 8.]

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.16.215.

Effective date—1980 c 128: "Sections 1 through 8 and 10 through 16 of this act shall take effect on January 1, 1981, and shall apply to violations of the traffic laws committed on or after January 1, 1981. Section 9 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1980 c 128 § 18.]

Severability—1980 c 128: "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." [1980 c 128 § 17.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.070 Response to notice of traffic infraction—Contesting determination—Hearing—Failure to respond or appear. (Effective July 1, 1984.) (1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within seven days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5) (a) If any person issued a notice of traffic infraction:

(i) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(ii) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing.

(b) The department may not renew the driver's license, or in the case of a standing, stopping, or parking violation the vehicle license, of any person for whom the court has entered an order pursuant to (a) of this subsection until any penalties imposed pursuant to this chapter have been satisfied. For purposes of driver's license nonrenewal only, the lessee of a vehicle shall be considered to be the person to whom a notice of a standing, stopping, or parking violation has been issued for such violations of the vehicle incurred while the vehicle was leased or rented under a bona fide commercial lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner, if the lease agreement contains a provision prohibiting anyone other than the lessee from operating the vehicle. Such a lessor shall, upon the request of the municipality issuing the notice of infraction, supply the municipality with the name and driver's license number of the person leasing the vehicle at the time of the infraction. [1982 1st ex.s. c 14 § 3; 1980 c 128 § 2; 1979 ex.s. c 136 § 9.]

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.16.215.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.110 Monetary penalties (as amended by 1982 1st ex.s. c 12).

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated traffic infractions.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body. Any monetary penalty imposed under this subsection is not subject to the statutory assessments applicable to traffic offenses, including but not limited to the assessments required by RCW 46.81-.030, 43.101.210, 2.56.100, 3.62.080, and 13.40.260.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department may not renew the person's driver's license until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid.

(6) There shall be levied and paid into the general fund of the state treasury, a five-dollar fee in addition to the monetary penalty imposed for a traffic infraction other than a parking, standing, stopping, or pedestrian infraction. The five-dollar fee shall not be suspended by the court. [1982 1st ex.s. c 12 § 1; 1982 c 10 § 13. Prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

46.63.110 Monetary penalties (as amended by 1982 1st ex.s. c 14). (Effective July 1, 1984.) (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated traffic infractions.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to overtime parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. The monetary penalty for failure to respond to a notice of a traffic infraction relating to overtime parking as defined by local law, ordinance, regulation, or resolution shall be set by the local legislative body which originally enacted the local law, ordinance, regulation, or resolution creating the parking offense. The local court, whether a municipal, police, or district court may impose the monetary penalty set by the local legislative body. Such locally set monetary penalty is not subject to the assessments required by RCW 46.81.030 and 43.101.210 and related court rules.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty and the department may not renew the person's driver's license, or in the case of a standing, stopping, or parking violation the vehicle license, until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid.

(6) There shall be levied and paid into the general fund of the state treasury, a five-dollar fee in addition to the monetary penalty imposed for a traffic infraction other than a parking, standing, stopping, or pedestrian infraction. The five-dollar fee shall not be suspended by the court. [1982 1st ex.s. c 14 § 4; 1982 c 10 § 13. Prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Reviser's note: RCW 46.63.110 was amended twice during the 1982 first extraordinary session of the legislature, each without reference to the other. However, the amendment by chapter 14, Laws of 1982 1st ex. sess. is not effective until July 1, 1984. Until then, the amendment by chapter 12, Laws of 1982 1st ex. sess. controls.

Thereafter, for rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Rules of court: Monetary penalty schedule—JTIR 6.2.

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.12.215.

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 330: See note following RCW 3.62.060.

Severability—1981 c 19: See note following RCW 46.63.020.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.64 ENFORCEMENT

Sections

46.64.040 Nonresident's use of highways as assent to being sued and served in state—Resident leaving state—Secretary of state as attorney in fact.

Impoundment of vehicle for driver's license violations—Release, when—Rules implementing: RCW 46.20.435.

46.64.040 Nonresident's use of highways as assent to being sued and served in state—Resident leaving state—Secretary of state as attorney in fact. The acceptance by a nonresident of the rights and privileges conferred by law in the use of the public highways of this state, as evidenced by his operation of a vehicle thereon, or the operation thereon of his vehicle with his consent, express or implied, shall be deemed equivalent to and construed to be an appointment by such nonresident of the secretary of state of the state of Washington to be his true and lawful attorney upon whom may be served all lawful summons and processes against him growing out of any accident, collision, or liability in which such nonresident may be involved while operating a vehicle upon the public highways, or while his vehicle is being operated thereon with his consent, express or implied, and such operation and acceptance shall be a signification of his agreement that any summons or process against him which is so served shall be of the same legal force and validity as if served on him personally within the state of Washington. Likewise each resident of this state who, while operating a motor vehicle on the public highways of this state, is involved in any accident, collision or liability and thereafter within three years departs from this state appoints the secretary of state of the state of Washington as his lawful attorney for service of summons as provided in this section for nonresidents. Service of such summons or process shall be made by leaving two copies thereof with a fee of twenty-five dollars with the secretary of state of the state of Washington, or at his office, and such service shall be sufficient and valid personal service upon said resident or nonresident: *Provided*, That notice of such service and a copy of the summons or process is forthwith sent by registered mail with return receipt requested, by plaintiff to the defendant at the last known address of the said defendant, and the plaintiff's affidavit of compliance herewith are appended to the process, together with the affidavit of the plaintiff's attorney that he has with due diligence attempted to serve personal process upon the defendant at all addresses known to him of defendant and further listing in his affidavit the addresses at which he attempted to have process served. However, if process is forwarded by registered mail and defendant's endorsed receipt is received and entered as a part of the return of process then the foregoing affidavit of plaintiff's attorney need only show that the defendant received personal delivery by mail: *Provided further*, That personal service outside of this state in accordance with the provisions of law relating to personal service of summons outside of this state shall relieve the plaintiff from mailing a copy of the summons or process by registered mail as hereinbefore provided. The secretary of state shall forthwith send one of such copies by mail, postage prepaid, addressed to the defendant at his address, if known to the secretary of state. The court in which the action is brought may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action. The fee of twenty-five dollars paid by the plaintiff to the secretary of state shall be taxed as

part of his costs if he prevails in the action. The secretary of state shall keep a record of all such summons and processes, which shall show the day of service. [1982 c 35 § 197; 1973 c 91 § 1; 1971 ex.s. c 69 § 1; 1961 c 12 § 46.64.040. Prior: 1959 c 121 § 1; 1957 c 75 § 1; 1937 c 189 § 129; RRS § 6360-129.]

Rules of court: Cf. CR 12(a).

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Deposit of fees in secretary of state's revolving fund: RCW 43.07.130.

Chapter 46.68

DISPOSITION OF REVENUE

Sections

46.68.065	Motorcycle safety education account.
46.68.120	Distribution of amount allocated to counties— Generally.
46.68.122	Distribution of amount to counties—Factors of distribution formula.
46.68.124	Distribution of amount to counties—Population, road cost, money need, computed—Allocation percentage adjustment, when—Proportional reduction, when.

46.68.065 Motorcycle safety education account.

There is hereby created the motorcycle safety education account in the highway safety fund of the state treasury, to the credit of which shall be deposited all moneys directed by law to be credited thereto. All expenses incurred by the director of the department of licensing in administering RCW 46.20.505 through 46.20.520 shall be borne by appropriations from this account. [1982 c 77 § 8.]

Severability—1982 c 77: See note following RCW 46.20.500.

46.68.120 Distribution of amount allocated to counties—Generally. Funds to be paid to the counties of the state shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such funds shall be deducted monthly as such funds accrue and set aside for the use of the department of transportation and the county road administration board for the supervision of work and expenditures of such counties on the county roads thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: *Provided*, That any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;

(2) Two-tenths of one percent of such funds shall be deducted monthly as such funds accrue and set aside for the use of the department of transportation to carry out the responsibilities specified in RCW 46.68.124: *Provided*, That any funds so retained and not expended shall be credited in the succeeding biennium to the counties in proportion to deductions herein made;

(3) All sums required to be repaid to counties composed entirely of islands shall be deducted;

(4) The balance of such funds remaining to the credit of counties after such deductions shall be paid to the

several counties monthly, as such funds accrue, in accordance with RCW 46.68.122 and 46.68.124. [1982 c 33 § 1; 1980 c 87 § 44; 1979 c 158 § 185; 1977 ex.s. c 151 § 42; 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.]

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

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.

46.68.122 Distribution of amount to counties—Factors of distribution formula. Funds to be paid to the several counties pursuant to RCW 46.68.120(4) shall be allocated among them upon the basis of a distribution formula consisting of the following four factors:

(1) An equal distribution factor of ten percent of such funds shall be paid to each county;

(2) A population factor of thirty percent of such funds shall be paid to each county in direct proportion that the county's total equivalent population, as computed pursuant to RCW 46.68.124(1), is to the total equivalent population of all counties;

(3) A road cost factor of thirty percent of such funds shall be paid to each county in direct proportion that the county's total annual road cost, as computed pursuant to RCW 46.68.124(2), is to the total annual road costs of all counties;

(4) A money need factor of thirty percent of such funds shall be paid to each county in direct proportion that the county's money need factor, as computed pursuant to RCW 46.68.124(3), is to the total of money need factors of all counties. [1982 c 33 § 2.]

46.68.124 Distribution of amount to counties—Population, road cost, money need, computed—Allocation percentage adjustment, when—Proportional reduction, when. (1) The equivalent population for each county shall be computed as the sum of the population residing in the county's unincorporated area plus twenty-five percent of the population residing in the county's incorporated area. Population figures required for the computations in this subsection shall be certified by the director of the office of financial management on or before July 1st of each odd-numbered year: *Provided however*, That for the purposes of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the director of the office of financial management shall furnish to the secretary of transportation those population figures required for the computation that were effective July 1, 1981.

(2) The total annual road cost for each county shall be computed as the sum of one twenty-fifth of the total estimated county road replacement cost, plus the total estimated annual maintenance cost. Appropriate costs

for bridges and ferries shall be included. The secretary of transportation with the advice and assistance of the county road administration board shall be responsible for establishing a uniform system of roadway categories for both maintenance and construction and also for establishing a single state-wide cost per mile rate for each roadway category. The total annual cost for each county will be based on the established state-wide cost per mile and associated mileage for each category. The mileage to be used for these computations shall be as shown in the county road log as maintained by the secretary of transportation as of July 1, 1983, and each two years thereafter. Each county shall be responsible for submitting changes, corrections, and deletions as regards the county road log to the secretary of transportation. Such changes, corrections, and deletions shall be subject to verification and approval by the secretary of transportation prior to inclusion in the county road log: *Provided however*, That for the purpose of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the total annual road costs shall be those shown on page K-3, column 4 of the "1980 Cost Factor Study" published December 9, 1980, by the department of transportation.

(3) The money need factor for each county shall be the county's total annual road cost less the following four amounts:

(a) One-half the sum of the actual county road tax levied upon the valuation of all taxable property within the county road districts pursuant to RCW 36.82.040 for the two calendar years next preceding the year of computation of the allocation amounts as certified by the department of revenue;

(b) One-half the sum of all funds received by the county road fund from the federal forest reserve fund pursuant to *RCW 36.33.110 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(c) One-half the sum of timber excise taxes received by the county road fund pursuant to chapter 84.33 RCW in the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(d) One-half the sum of motor vehicle license fees and motor vehicle and special fuel taxes refunded to the county, pursuant to RCW 46.68.080 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer.

(4) The state treasurer and the department of revenue shall furnish to the secretary of transportation the information required by subsection (3) of this section on or before July 1st of each odd-numbered year: *Provided however*, That for the purpose of computing the counties' allocation factors effective March 1, 1982, through December 31, 1983, the information required by subsection (3) of this section shall be for calendar years 1980 and 1981.

(5) The secretary of transportation, with the advice and assistance of the county road administration board, shall compute and provide to the counties the allocation factors of the several counties on or before September

1st of each year based solely upon the sources of information herein before required: *Provided*, That the allocation factor shall be held to a level not more than five percent above or five percent below the allocation factor in use during the previous calendar year. Upon computation of the actual allocation factors of the several counties, the secretary of transportation shall provide such factors to the state treasurer to be used in the computation of the counties' fuel tax allocation for the succeeding calendar year. The state treasurer shall adjust the fuel tax allocation of each county on January 1st of every year based solely upon the information provided by the secretary of transportation.

(6) Notwithstanding the provisions of subsection (5) of this section, the secretary of transportation, with the advice and assistance of the county road administration board, shall adjust, as necessary, the allocation percentages of the several counties so that no county shall in any calendar year receive less than eighty-five percent of the actual funds distributed to that county in calendar year 1981 under this section. The eighty-five percent entitlement of funds authorized by this subsection shall be reduced proportionally in the succeeding year in the event that the total amount of funds distributed to the counties under this section in any year is less than the distribution of such funds in 1981. [1982 c 33 § 3.]

*Reviser's note: RCW 36.33.110 was repealed by 1982 c 126 § 3, effective July 1, 1983; but see RCW 28A.02.300 and 28A.02.310.

Chapter 46.71

AUTOMOTIVE REPAIR

Sections

46.71.010	Definitions.
46.71.030	Replaced parts—Return to customer—Exceptions.
46.71.040	Estimate of costs—Alternatives—Customer's choice.
46.71.043	Posting of signs required.
46.71.047	Excessive repair costs, conditions for recovery of—Costs of action and attorneys' fee.
46.71.050	Certain repairman's remedies barred—Conditions.
46.71.060	Price estimates and invoices required to be kept for one year.
46.71.065	Understating estimates prohibited.
46.71.070	Unfair practices as violation of consumer protection act—Defense.
46.71.080	Notice of this chapter to vehicle owners.
46.71.090	Notice of this chapter to repairmen.

46.71.010 Definitions. For purposes of this chapter:

(1) "Automotive repairman" means a person who for compensation engages in the business of automotive repairing and/or diagnosing malfunctions of motor vehicles subject to RCW 46.16.010; and

(2) "Automotive repairs" includes but is not limited to:

(a) All repairs to vehicles subject to RCW 46.16.010 which are commonly performed in a repair shop by a motor vehicle mechanic including the installation, exchange, or repair of mechanical parts or units for any vehicle or the performance of any electrical or mechanical adjustment to any vehicle; and

(b) All work in shops that perform one or more specialties within the automotive repair trade including but not limited to body, frame, front-end, brake repair, transmission, tune-up, and electrical repair work, and muffler installation. [1982 c 62 § 1; 1977 ex.s. c 280 § 1.]

46.71.030 Replaced parts—Return to customer—Exceptions. Upon request of the customer when the work order is taken, except for parts covered by a manufacturer's warranty, the automotive repairman shall return replaced parts to the customer at the time the work is completed.

If a customer requests the return of a part that must be returned to the manufacturer or distributor under the terms of a warranty agreement, the repairman shall offer to show the part to the customer at the time the work is completed. The repairman need not show a replaced part when no charge is being made for the replacement part. [1982 c 62 § 2; 1977 ex.s. c 280 § 3.]

46.71.040 Estimate of costs—Alternatives—Customer's choice. (1) If the price of the automotive repairs is estimated to exceed seventy-five dollars and the repairman chooses to preserve any right to assert a possessory or chattel lien or if the customer requests a written price estimate, the automotive repairman shall, prior to the commencement of supplying any parts or the performance of any labor, provide the customer a written price estimate or the following choice of estimate alternatives:

"YOU ARE ENTITLED TO A WRITTEN PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. YOU ARE ALSO ENTITLED TO REQUIRE THE REPAIRMAN TO OBTAIN YOUR ORAL OR WRITTEN AUTHORIZATION TO EXCEED THE WRITTEN PRICE ESTIMATE. YOUR SIGNATURE OR INITIALS WILL INDICATE YOUR SELECTION.

1. I request an estimate in writing before you begin repairs. Contact me if the price will exceed this estimate by more than ten percent.

2. Proceed with repairs but contact me if the price will exceed \$.....

3. I do not want a written estimate.

These alternatives shall not be required when the customer's motor vehicle has been brought to the automotive repairman without face-to-face contact between the customer and the automotive repairman or the repairman's representative at the repairman's regular place of business. A repairman is not required to provide a customer with a written price estimate or a choice of estimate alternatives except as required by this subsection.

(2) If the customer signs or initials alternative 1, the automotive repairman shall, prior to supplying any parts or performing any labor, give to the customer a written price estimate for the labor and parts necessary for the specific repair requested. If the customer signs or initials either alternative 2 or 3, no written price estimate is required unless the repairman chooses to preserve any right to assert a possessory or chattel lien. The repairman may not charge for work done or parts supplied which are not a part of the written price estimate and may not charge the customer more than one hundred ten percent, exclusive of retail sales tax, of the total shown on the written price estimate: *Provided*, That neither of these limitations shall apply if, prior to performing the additional labor and/or supplying the additional parts, the repairman obtains either the oral or written authorization of the customer to exceed the written price estimate. The repairman or his agent shall note on the written price estimate the date and time of obtaining an oral authorization.

(3) If the price of the automotive repairs is estimated to be less than seventy-five dollars and, after the repairs commence, it is determined that the final price will exceed this amount, the automotive repairman must obtain the oral or written authorization of the customer to exceed a final price of seventy-five dollars. No repairman may charge a customer more than seventy-five dollars for repairs under this subsection unless authorized orally or in writing by the customer. [1982 c 62 § 3; 1977 ex.s. c 280 § 4.]

46.71.043 Posting of signs required. An automotive repairman shall post in a prominent place on the business premises one or more signs, readily visible to customers, in the following form:

YOUR CUSTOMER RIGHTS

ON REQUEST, YOU ARE ENTITLED BY LAW TO:

- (1) A WRITTEN ESTIMATE OF REPAIRS WHICH WILL COST MORE THAN SEVENTY-FIVE DOLLARS;
- (2) RETURN OR INSPECTION OF ALL REPLACED PARTS; AND
- (3) AUTHORIZE ANY REPAIRS WHICH EXCEED THE ESTIMATED PRICE BY MORE THAN TEN PERCENT.

The first line of each sign shall be in letters not less than one and one-half inch in height and the remaining lines shall be in letters not less than three-quarters of an inch in height. [1982 c 62 § 4.]

46.71.047 Excessive repair costs, conditions for recovery of—Costs of action and attorneys' fee. If an automotive repairman is required by RCW 46.71.040 to provide the customer a written price estimate or a choice of estimate alternatives, the repairman is barred from recovering in an action to recover for automotive repairs any amount in excess of one hundred ten percent of the amount authorized by the customer unless the repairman

proves by a preponderance of the evidence that his or her conduct was reasonable, necessary, and justified under the circumstances. In any action to recover for automotive repairs the prevailing party may, in the discretion of the court, recover the costs of the action and a reasonable attorneys' fee. [1982 c 62 § 5.]

46.71.050 Certain repairman's remedies barred—Conditions. A repairman who performs work or supplies parts which are not a part of the written price estimate or which together exceed one hundred ten percent of the written price estimate, without the oral or written authorization of the customer or who is not required by RCW 46.71.040 to provide the customer with a written price estimate or a choice of estimate alternatives shall be barred from asserting a possessory or chattel lien for the amount of the unauthorized parts or labor upon the motor vehicle. A repairman who supplies used, rebuilt, or reconditioned parts in violation of RCW 46.71.020 or who fails or refuses to return replaced parts as required by RCW 46.71.030 shall be barred from asserting a possessory or chattel lien for the amount charged for that replacement part upon the motor vehicle. [1982 c 62 § 6; 1977 ex.s. c 280 § 5.]

46.71.060 Price estimates and invoices required to be kept for one year. Every automotive repairman shall retain and make available for inspection upon request by the customer or the customer's authorized representative true copies of the written price estimates and invoices required under this chapter for at least one year after the date on which the repairs were performed. [1982 c 62 § 7; 1977 ex.s. c 280 § 6.]

46.71.065 Understating estimates prohibited. An automotive repairman shall not materially understate or misstate the estimated price of automotive repairs. [1982 c 62 § 8.]

46.71.070 Unfair practices as violation of consumer protection act—Defense. A violation of this chapter is an unfair act or practice in violation of the consumer protection act, chapter 19.86 RCW. In an action under chapter 19.86 RCW due to an automotive repairman's charging or attempt to charge a customer an amount in excess of one hundred ten percent of the amount authorized by the customer, a violation shall not be found if the automotive repairman proves by a preponderance of the evidence that his or her conduct was reasonable, necessary, and justified under the circumstances.

Notwithstanding RCW 46.64.050, no violation of this chapter shall give rise to criminal liability under that section. [1982 c 62 § 9; 1977 ex.s. c 280 § 7.]

46.71.080 Notice of this chapter to vehicle owners. Whenever a vehicle license renewal form under RCW 46.16.210 is given to the registered owner of any vehicle, the department of licensing shall give to the owner written notice of the provisions of this chapter in a manner prescribed by the director of licensing. [1982 c 62 § 10.]

46.71.090 Notice of this chapter to repairmen. When the department of revenue issues a registration certificate under RCW 82.32.030 to an automotive repairman, it shall give written notice to the person of the requirements of this chapter in a manner prescribed by the director of revenue. The department of revenue shall thereafter give the notice on an annual basis in conjunction with the business and occupation tax return provided to each person holding a registration certificate as an automotive repairman. [1982 c 62 § 11.]

Chapter 46.85

RECIPROCAL OR PROPORTIONAL REGISTRATION OF VEHICLES

Sections

46.85.020	Definitions.
46.85.030	Departmental entry into multistate proportional registration agreement, International Registration Plan.
46.85.040	Authority for reciprocity agreements—Provisions—Reciprocity standards.
46.85.060	Declarations of extent of reciprocity, when.
46.85.100	Agreements to be written, filed, and available for distribution.
46.85.270	Special reciprocity identification plate—Display.

Reciprocity commission abolished—Powers, duties, and functions transferred: RCW 43.24.800 through 43.24.830.

46.85.020 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial vehicle" means any vehicle which is operated in more than one state and used for the transportation of persons for hire, compensation, or profit, or designed or used primarily for the transportation of property.

(2) "Jurisdiction" means and includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(3) "Owner" means a person who holds the legal title to a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner shall be deemed to be such person in whom is vested right of possession or control.

(4) "Properly registered," as applied to place of registration, means:

(a) The jurisdiction where the person registering the vehicle has his legal residence; or

(b) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which such vehicle is used has a place of business therein, and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise

controlled in or from such place of business, and, the vehicle has been assigned to such place of business; or

(c) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by said jurisdiction.

In case of doubt or dispute as to the proper place of registration of a vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected.

(5) "Fleet" means three or more commercial vehicles: *Provided*, That the department may require proportional registration and licensing of a fleet of less than three vehicles whenever in its judgment the interests of this state will be best served and protected thereby.

(6) The words "department," "motor vehicle," "person," and "vehicle" each have the meanings ascribed to them, respectively, by RCW 46.04.690, 46.04.320, 46.04.405, and 46.04.670.

(7) "Preceding year" means a period of twelve consecutive months fixed by the department which period shall be within the sixteen months immediately preceding the commencement of the registration or license year for which proportional registration is sought; and the department in fixing such period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(8) "Registration year" means the period from January 1st through December 31st of each calendar year. [1982 c 227 § 18; 1981 c 222 § 1; 1963 c 106 § 2.]

Effective date—1982 c 227: See note following RCW 18.34.130.

46.85.030 Departmental entry into multistate proportional registration agreement, International Registration Plan. The department of licensing shall have the authority to execute agreements, arrangements, or declarations to carry out the provisions of this chapter.

The department may enter into a multistate proportional registration agreement which prescribes a different definition of any terms defined in chapter 46.85 RCW. The agreement definition shall control unless appropriate exception is taken thereto.

If the department enters into a multistate proportional registration agreement which prescribes a different procedure for vehicle identification, the agreement procedures shall control.

If the department enters into a multistate proportional registration agreement which requires this state to perform acts in a quasi agency relationship, the department may collect and forward applicable registration fees and applications to other jurisdictions on behalf of the applicant or on behalf of another jurisdiction and may take such other action as will facilitate the administration of such agreement.

If the department enters into a multistate proportional registration agreement which prescribes procedures applicable to vehicles not specifically described in chapter

46.85 RCW, such as but not limited to "owner-operator" or "rental" vehicles, it shall promulgate rules accomplishing the procedures prescribed in such agreement.

If the department enters into a multistate proportional registration agreement which prohibits the collection of minimum fees or taxes provided for in this chapter or elsewhere for the ownership or operation of motor vehicles, the prohibitions contained in the agreement shall control.

It is the purpose and intent of this subsection to facilitate the membership in the International Registration Plan and at the same time allow the department to continue to participate in such agreements and compacts as may be necessary and desirable in addition to the International Registration Plan. [1982 c 227 § 19; 1981 c 222 § 2; 1977 ex.s. c 92 § 1; 1975-'76 2nd ex.s. c 34 § 137; 1967 c 32 § 113; 1963 c 106 § 3.]

Effective date—1982 c 227: See note following RCW 18.34.130.

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

Powers, duties, and functions transferred to department: RCW 43.24.800 through 43.24.830.

46.85.040 Authority for reciprocity agreements—Provisions—Reciprocity standards. The department may enter into an agreement or arrangement with the duly authorized representatives of another jurisdiction, granting to vehicles or to owners of vehicles which are properly registered or licensed in such jurisdiction and for which evidence of compliance is supplied, benefits, privileges and exemptions from the payment, wholly or partially, of any taxes, fees, or other charges imposed upon such vehicles or owners with respect to the operation or ownership of such vehicles under the laws of this state, except gallonage taxes on motor fuels. Such an agreement or arrangement shall provide that vehicles properly registered or licensed in this state when operated upon highways of such other jurisdiction shall receive exemptions, benefits and privileges of a similar kind or to a similar degree as are extended to vehicles properly registered or licensed in such jurisdiction when operated in this state. Each such agreement or arrangement shall, in the judgment of the department, be in the best interest of this state and the citizens thereof and shall be fair and equitable to this state and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this state from the uninterrupted flow of commerce. [1982 c 227 § 20; 1963 c 106 § 4.]

Effective date—1982 c 227: See note following RCW 18.34.130.

46.85.060 Declarations of extent of reciprocity, when. In the absence of an agreement or arrangement with another jurisdiction, the department may examine the laws and requirements of such jurisdiction and declare the extent and nature of exemptions, benefits and privileges to be extended to vehicles properly registered or licensed in such other jurisdiction, or to the owners of such vehicles, which shall, in the judgment of the department, be in the best interest of this state and the

citizens thereof and which shall be fair and equitable to this state and the citizens thereof, and all of the same shall be determined on the basis and recognition of the benefits which accrue to the economy of this state from the uninterrupted flow of commerce. [1982 c 227 § 21; 1963 c 106 § 6.]

Effective date—1982 c 227: See note following RCW 18.34.130.

46.85.100 Agreements to be written, filed, and available for distribution. All agreements, arrangements, or declarations or amendments thereto shall be in writing and shall be filed with the department. Upon becoming effective, they shall supersede the provisions of RCW 46.16.030 to the extent that they are inconsistent therewith. The department shall provide copies for public distribution upon request. [1982 c 227 § 22; 1967 c 32 § 114; 1963 c 106 § 10.]

Effective date—1982 c 227: See note following RCW 18.34.130.

46.85.270 Special reciprocity identification plate—Display. The department may require the display of a special reciprocity identification plate upon any commercial vehicle operating within this state under the provisions of any reciprocal agreement between this state and the state or other jurisdiction in which such vehicle is properly licensed: *Provided*, That such reciprocal agreement is on file with the department: *Provided further*, That the issuance and display of such identification plate shall not be deemed to enlarge upon, restrict, or in any manner affect the terms or conditions of such reciprocal agreement. [1982 c 227 § 23; 1963 c 106 § 27.]

Effective date—1982 c 227: See note following RCW 18.34.130.

Chapter 46.90

WASHINGTON MODEL TRAFFIC ORDINANCE

Sections

46.90.300	Certain RCW sections adopted by reference.
46.90.424	Repealed.
46.90.427	Certain RCW sections adopted by reference.
46.90.705	Certain RCW sections adopted by reference.

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, 46.12.101, 46.12.260, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.16.010, 46.16.025, 46.16.030, 46.16.135, 46.16.140, 46.16.145, 46.16.170, 46.16.180, 46.16.240, 46.16.260, 46.16.290, 46.16.380, 46.16.500, 46.16.505, 46.20.011, 46.20.021, 46.20.022, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.410, 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, 46.37.196, 46.37.200, 46.37.210, 46.37.215, 46.37.220, 46.37.230, 46.37.240, 46.37.260, 46.37.270, 46.37.280, 46.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37.351, 46.37.360, 46.37.365, 46.37.369, 46.37.375, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.460, 46.37.465, 46.37.480, 46.37.490, 46.37.500, 46.37.510, 46.37.513, 46.37.517, 46.37.520, 46.37.522, 46.37.523, 46.37.524, 46.37.525, 46.37.527, 46.37.528, 46.37.529, 46.37.530, 46.37.535, 46.37.537, 46.37.539, 46.37.540, 46.37.550, 46.37.560, 46.37.570, 46.37.590, 46.37.600, 46.44.010, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.041, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.100, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, 46.44.180, 46.48.170, 46.52.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.088, 46.52.090, 46.52.100, 46.52.104, 46.52.106, 46.52.108, 46.52.111, 46.52.112, 46.52.113, 46.52.114, 46.52.116, 46.52.117, 46.52.118, 46.52.119, 46.52.1192, 46.52.1194, 46.52.1196, 46.52.1198, 46.52.145, 46.52.160, 46.52.170, 46.52.180, 46.52.190, 46.52.200, 46.52.210, and 46.80-.010. [1982 c 25 § 1; 1980 c 65 § 2; 1977 ex.s. c 60 § 1; 1975 1st ex.s. c 54 § 50.]

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

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, 46.61.428, 46.61.435, 46.61.440, 46.61.445, 46.61.450, 46.61.455, 46.61.460, 46.61.465, 46.61.470, 46.61.475, 46.61.500, 46.61.502, 46.61.504, 46.61.506, 46.61.515, 46.61.520, 46.61.525, 46.61.530, 46.61.535, 46.61.540, 46.61.560, 46.61.565, 46.61.570, and 46.61.575. [1982 c 25 § 2; 1980 c 65 § 4; 1977 ex.s. c 60 § 4; 1975 1st ex.s. c 54 § 71.]

46.90.705 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 46.63.010, 46.63.020, 46.63.030, 46.63.040, 46.63.060, 46.63.070, 46.63.080, 46.63.090, 46.63.100, 46.63.110, 46.63.120, 46.63.130, 46.63.140, and 46.63-.151. [1982 c 25 § 3; 1980 c 65 § 8.]

Title 47 PUBLIC HIGHWAYS AND TRANSPORTATION

Chapters

- 47.10 Highway construction bonds.**
- 47.17 State highway routes.**
- 47.20 Miscellaneous projects.**
- 47.26 Development in urban areas—Urban arterials.**
- 47.48 Closing highways and restricting traffic.**
- 47.52 Limited access facilities.**
- 47.60 Puget Sound ferry and toll bridge system.**
- 47.68 Aeronautics.**

Chapter 47.10

HIGHWAY CONSTRUCTION BONDS

Sections

- 47.10.790 Issuance and sale of general obligation bonds—State route 90 improvements—Category C improvements.**
- 47.10.801 Issuance and sale of general obligation bonds.**
- 47.10.802 Administration and amount of bond sales.**

47.10.790 Issuance and sale of general obligation bonds—State route 90 improvements—Category C improvements. (1) In order to provide funds for the location, design, right of way, and construction of selected interstate highway improvements, there shall be issued and sold upon the request of the Washington state transportation commission, a total of one hundred million dollars of general obligation bonds of the state of Washington to pay the state's share of costs for completion of state route 90 (state route 5 to state route 405) and other related state highway projects eligible for regular federal interstate funding and until December 31, 1985, to temporarily pay the regular federal share of construction of completion projects on state route 90 (state route 5 to state route 405) and other related state highway projects eligible for regular interstate funding in advance of federal-aid apportionments under the provisions of 23 U.S.C. Secs. 115 or 122: *Provided*, That the total amount of bonds issued to temporarily pay the regular federal share of construction of federal-aid interstate highways in advance of federal-aid apportionments as authorized by this section and RCW 47.10.801 shall not exceed one hundred twenty million dollars: *Provided further*, That the transportation commission shall consult with the legislative transportation committee prior to the adoption of plans for the obligation of federal-aid apportionments received in federal fiscal year 1985 and subsequent years to pay the regular federal share of federal-aid interstate highway construction projects or to convert such apportionments under the provisions of 23 U.S.C. Secs. 115 or 122.

(2) The transportation commission, in consultation with the legislative transportation committee, may at any time find and determine that any amount of the bonds authorized in subsection (1) of this section, and not then sold, are no longer required to be issued and

sold for the purposes described in subsection (1) of this section.

(3) Any bonds authorized by subsection (1) of this section that the transportation commission determines are no longer required for the purpose of paying the cost of the designated interstate highway improvements described therein shall be issued and sold, upon the request of the Washington state transportation commission, to provide funds for the location, design, right of way, and construction of major transportation improvements throughout the state that are identified as category C improvements in RCW 47.05.030. [1982 c 19 § 3; 1981 c 316 § 10; 1979 ex.s. c 180 § 1.]

Severability—1982 c 19: See note following RCW 47.10.801.

Severability—1981 c 316: See RCW 47.10.811.

47.10.801 Issuance and sale of general obligation bonds. (1) In order to provide funds necessary for the location, design, right of way, and construction of selected interstate and other state highway improvements, there shall be issued and sold, subject to subsections (2) and (3) of this section, upon the request of the Washington state transportation commission a total of four hundred fifty million dollars of general obligation bonds of the state of Washington for the following purposes and specified sums:

(a) Not to exceed two hundred twenty-five million dollars to pay the state's share of costs for federal-aid interstate highway improvements and until December 31, 1985, to temporarily pay the regular federal share of construction of federal-aid interstate highway improvements to complete state routes 82, 90, 182, and 705 in advance of federal-aid apportionments under the provisions of 23 U.S.C. Secs. 115 or 122: *Provided*, That the total amount of bonds issued to temporarily pay the regular federal share of construction of federal-aid interstate highways in advance of federal-aid apportionments as authorized by this section and RCW 47.10.790 shall not exceed one hundred twenty million dollars: *Provided further*, That the transportation commission shall consult with the legislative transportation committee prior to the adoption of plans for the obligation of federal-aid apportionments received in federal fiscal year 1985 and subsequent years to pay the regular federal share of federal-aid interstate highway construction projects or to convert such apportionments under the provisions of 23 U.S.C. Secs. 115 or 122;

(b) Two hundred twenty-five million dollars for major transportation improvements throughout the state that are identified as category C improvements and for selected major non-interstate construction and reconstruction projects that are included as Category A Improvements in RCW 47.05.030.

(2) The amount of bonds authorized in subsection (1)(a) of this section shall be reduced if the transportation commission, in consultation with the legislative transportation committee, determines that any of the bonds that have not been sold are no longer required.

(3) The amount of bonds authorized in subsection (1)(b) of this section shall be increased by an amount not to exceed, and concurrent with, any reduction of

bonds authorized under subsection (1)(a) of this section in the manner prescribed in subsection (2) of this section. [1982 c 19 § 1; 1981 c 316 § 1.]

Severability—1982 c 19: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 19 § 5.]

47.10.802 Administration and amount of bond sales. Upon request being made by the transportation commission, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.801 in accordance with chapter 39.42 RCW. The amount of such bonds issued and sold under RCW 47.10.801 through 47.10.809 in any biennium may not exceed the amount of a specific appropriation therefor. Such bonds may be sold from time to time in such amounts as may be necessary for the orderly progress of the state highway improvements specified in RCW 47.10.801. The amount of bonds issued and sold under RCW 47.10.801(1)(a) in any biennium shall not, except as provided in that section, exceed the amount required to match federal-aid interstate funds apportioned to the state of Washington under 23 U.S.C. Sec. 104 and available for obligation. The transportation commission shall give notice of its intent to sell bonds to the legislative transportation committee at least forty-five days before requesting the state finance committee to issue and sell bonds authorized by RCW 47.10.801(1)(a). [1982 c 19 § 2; 1981 c 316 § 2.]

Severability—1982 c 19: See note following RCW 47.10.801.

Chapter 47.17

STATE HIGHWAY ROUTES

Sections

47.17.655 State route No. 504.

47.17.655 State route No. 504. A state highway to be known as state route number 504, hereby designated the Spirit Lake Memorial Highway, dedicated to the memory of those who lost their lives in the 1980 eruption of Mt. St. Helens, is established as follows:

Beginning at a junction with state route number 5 in the vicinity north of Castle Rock, thence easterly along the north shore of Silver Lake by way of Silverlake and Toutle, past a junction with state route number 505, thence by way of Kid Valley and St. Helens to the former Spirit Lake. [1982 c 82 § 1; 1970 ex.s. c 51 § 132.]

Chapter 47.20

MISCELLANEOUS PROJECTS

Sections

47.20.700 State route No. 504 (Spirit Lake Memorial Highway)—Extension and parking facilities.

47.20.700 State route No. 504 (Spirit Lake Memorial Highway)—Extension and parking facilities. The

department of transportation may provide for the construction of an extension of state route number 504 from the vicinity of Maple Flats to the vicinity of the United States Corps of Engineers debris dam on the north fork of the Toutle river on an alignment to be approved by the department of transportation. The department may enter into an agreement with the principal owner of the necessary right of way providing as follows:

(1) The owner of the right of way shall construct the highway extension and public parking facilities as specified by the department of transportation.

(2) The owner of the right of way shall convey to the state, right of way for the highway extension a minimum of one hundred fifty feet in width (except right of way presently under the control of the department of natural resources), together with areas for public parking facilities as designated by the department of transportation.

(3) The department of transportation shall reimburse the present owner of the right of way for the actual cost of construction of the highway extension and the public parking facilities.

(4) The construction of the highway extension and public parking facilities shall be completed within one year after March 27, 1982.

The department of transportation may acquire that part of the right of way necessary for the highway extension that is now under the control of the department of natural resources in the manner provided in RCW 47.12.023 through 47.12.029.

All expenditures by the department of transportation pursuant to this section shall be from appropriations for the construction of category A projects. [1982 c 82 § 2.]

Chapter 47.26

DEVELOPMENT IN URBAN AREAS—URBAN ARTERIALS

Sections

47.26.120 Urban arterial board—Created—Composition—Appointments—Terms—Vacancies—Chairman.

47.26.120 Urban arterial board—Created—Composition—Appointments—Terms—Vacancies—Chairman. (1) There is hereby created an urban arterial board of thirteen members, six of whom shall be county members, six of whom shall be city members. The chairman shall be the state aid engineer for the department of transportation.

(2) Of the county members of the board, one member shall be a county engineer from a county of the first class or larger; one member shall be a county engineer from a county of the second class or smaller; one member shall be an engineer occupying the position of county road administration engineer, created by RCW 36.78-.060; one member shall be the chairman of the county road administration board created by RCW 36.78.030; one member shall be a county executive, council member, or commissioner from a county of the first class or larger; one member shall be a county executive, council member, or commissioner from a county of the second

class or smaller. All county members of the board, except the county road administration engineer and the chairman of the county road administration board, shall be appointed. Not more than one county member of the board shall be from one county. For the purposes of this subsection, the term county engineer shall mean the director of public works in any county in which such a position exists.

(3) Of the city members of the board two shall be chief city engineers of cities over twenty thousand population; one shall be a chief city engineer of a city of less than twenty thousand population; two shall be mayors, commissioners, or city council members of cities of more than twenty thousand population; and one shall be a mayor, commissioner, or council member of a city of less than twenty thousand population. All of the city members shall be appointed. Not more than one city member of the board shall be from one city. For the purposes of this subsection the term chief city engineer shall mean the director of public works in any city in which such a position exists.

(4) Appointments shall be made by the secretary of transportation for four year terms except in the case of a vacancy, in which event the appointment shall be only for the remainder of the unexpired term in which the vacancy has occurred. A vacancy shall be deemed to have occurred on the board when any member elected to public office completes his term of office or is removed therefrom for any reason or when any member employed by a political subdivision terminates such employment for whatsoever reason.

(5) Before appointing any member to the urban arterial board, the secretary of transportation shall request from the executive committee of the Washington state association of counties, in the case of a county member appointment, and from the executive committee of the association of Washington cities, in the case of a city member appointment, recommendations of at least two eligible persons for each appointment to be made. The secretary of transportation shall give due consideration to the recommendations submitted to him.

(6) Any member of the board, including the chairman, may designate an official representative to serve on the board in his place with the same authority as the member, subject to the conditions and under the circumstances set forth in rules adopted by the board. [1982 c 209 § 1; 1981 c 315 § 3; 1971 ex.s. c 85 § 8; 1969 ex.s. c 171 § 1; 1967 ex.s. c 83 § 18.]

Effective date—1981 c 315: See note following RCW 47.26.060.

Chapter 47.48

CLOSING HIGHWAYS AND RESTRICTING TRAFFIC

Sections

47.48.020 Notice of closure or restriction—Emergency closure.

47.48.020 Notice of closure or restriction—Emergency closure. Before any state highway, county road, or city street is closed to, or the maximum speed

limit thereon reduced for, all vehicles or any class of vehicles, a notice thereof including the effective date shall be published in one issue of a newspaper of general circulation in the county or city or town in which such state highway, county road, or city street or any portion thereof to be closed is located; and a like notice shall be posted on or prior to the date of publication of such notice in a conspicuous place at each end of the state highway, county road, or city street or portion thereof to be closed or restricted: *Provided*, That no such state highway, county road, or city street or portion thereof may be closed sooner than three days after the publication and the posting of the notice herein provided for: *Provided, however*, That in cases of emergency or conditions in which the maximum time the closure will be in effect is twelve hours or less the proper officers may, without publication or delay, close state highways, county roads, and city streets temporarily by posting notices at each end of the closed portion thereof and at all intersecting state highways if the closing be of a portion of a state highway, at all intersecting state highways and county roads if the closing be a portion of a county road, and at all intersecting city streets if the closing be of a city street. In all emergency cases or conditions in which the maximum time the closure will be in effect is twelve hours or less, as herein provided, the orders of the proper authorities shall be immediately effective. [1982 c 145 § 5; 1977 ex.s. c 216 § 2; 1961 c 13 § 47.48.020. Prior: 1937 c 53 § 66, part; RRS § 6400-66 part; prior: 1921 c 21 § 2, part; RRS § 6840, part. Formerly RCW 47.48-.020 and 47.48.030.]

Chapter 47.52

LIMITED ACCESS FACILITIES

Sections

47.52.135 Hearing procedure.

47.52.135 Hearing procedure. At the hearing any representative of the county, city or town, or any other person may appear and be heard even though such official or person is not an abutting property owner. Such hearing may, at the option of the highway authority, be conducted in accordance with federal laws and regulations governing highway design public hearings. The members of such authority shall preside, or may designate some suitable person to preside as examiner. The authority shall introduce by competent evidence a summary of the proposal for the establishment of a limited access facility and any evidence that supports the adoption of the plan as being in the public interest. At the conclusion of such evidence, any person entitled to notice who has entered a written appearance shall be deemed a party to this hearing for purposes of this chapter and may thereafter introduce, either in person or by counsel, evidence and statements or counterproposals bearing upon the reasonableness of the proposal. Any such evidence and statements or counterproposals shall receive

reasonable consideration by the authority before any proposal is adopted. Such evidence must be material to the issue before the authority and shall be presented in an orderly manner. [1982 c 189 § 5; 1981 c 67 § 29; 1977 c 77 § 2; 1965 ex.s. c 75 § 3.]

Effective date—1982 c 189: See note following RCW 34.12.020.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Chapter 47.60

PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

Sections

47.60.145 Historic ferries—Acquisition by qualified persons or organizations.

47.60.145 Historic ferries—Acquisition by qualified persons or organizations. (1) An "historic ferry" is any vessel in the Washington state ferries fleet which has been listed in the Washington state register of historic places.

(2) When the department of transportation determines that an historic ferry is surplus to the needs of Washington state ferries, the department shall call for proposals from persons who wish to acquire the historic ferry. Proposals for the acquisition of an historic ferry shall be accepted only from persons or organizations that (a) are a governmental entity or a nonprofit corporation or association dedicated to the preservation of historic properties; (b) agree to a contract approved by the state historic preservation officer, which requires the preservation and maintenance of the historic ferry and provides that title to the ferry reverts to the state if the secretary of transportation determines that the contract has been violated; and (c) demonstrate the administrative and financial ability successfully to comply with the contract.

(3) The department shall evaluate the qualifying proposals and shall select the proposal which is most advantageous to the state. Factors to be considered in making the selection shall include but not be limited to:

- (a) Extent and quality of restoration;
- (b) Retention of original design and use;
- (c) Public access to the vessel;
- (d) Provisions for historical interpretation;
- (e) Monetary return to the state.

(4) If there are no qualifying proposals, an historic ferry shall be disposed of in the manner provided by state law. [1982 c 210 § 1.]

Severability—1982 c 210: "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." [1982 c 210 § 2.]

Archaeology and historic preservation, office of: Chapter 43.51A RCW.

Chapter 47.68

AERONAUTICS

(Formerly: Chapter 14.04 RCW, Aeronautics commission)

Sections

47.68.210 Rules—Standards.

47.68.210 Rules—Standards. The department of transportation may perform such acts, issue and amend such orders, make, promulgate, and amend such reasonable general rules, and procedures, and establish such minimum standards, consistent with the provisions of this chapter, as it shall deem necessary to perform its duties hereunder; all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons operating, using or traveling in aircraft or persons receiving instruction in flying or ground subjects pertaining to aeronautics, and the safety of persons and property on land or water, and developing and promoting aeronautics in this state. No rule of the department shall apply to airports or air navigation facilities owned or operated by the United States.

The department shall keep on file with the code reviser, and at the principal office of the department, a copy of all its rules for public inspection.

The department shall provide for the publication and general distribution of all its orders, rules, and procedures having general effect. [1982 c 35 § 198; 1947 c 165 § 21; Rem. Supp. 1947 § 10964-101. Formerly RCW 14.04.210.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

Notice of meetings: Chapter 42.30 RCW.

Title 48 INSURANCE

Chapters

- 48.03 Examinations.
- 48.04 Hearings and appeals.
- 48.05 Insurers—General requirements.
- 48.12 Assets and liabilities.
- 48.13 Investments.
- 48.14 Fees and taxes.
- 48.15 Unauthorized insurers.
- 48.17 Agents, brokers, solicitors, and adjusters.
- 48.18 The insurance contract.
- 48.18A Variable contract act.
- 48.20 Disability insurance.
- 48.23 Life insurance and annuities.
- 48.24 Group life and annuities.
- 48.30 Unfair practices and frauds.
- 48.40 Funeral services.
- 48.44 Health care services.
- 48.46 Health maintenance organizations.
- 48.53 Fire insurance—Arson fraud reduction.
- 48.66 Medicare supplemental health insurance act.
- 48.70 Specified disease insurance act.
- 48.74 Standard valuation law.

[1982 RCW Supp—page 408]

48.76 Standard nonforfeiture law for life insurance.

Master license system exemption: RCW 19.02.800.

Chapter 48.03 EXAMINATIONS

Sections

48.03.010 Examination of insurers, bureaus.

48.03.010 Examination of insurers, bureaus. (1) The commissioner shall examine the affairs, transactions, accounts, records, documents, and assets of each authorized insurer as often as he deems advisable. He shall so examine each domestic insurer not less frequently than every five years. Examination of an alien insurer may be limited to its insurance transactions in the United States.

(2) As often as he deems advisable and at least once in five years, the commissioner shall fully examine each rating organization and examining bureau licensed in this state. As often as he deems it advisable he may examine each advisory organization and each joint underwriting or joint reinsurance group, association, or organization.

(3) The commissioner shall in like manner examine each insurer or rating organization applying for authority to do business in this state.

(4) In lieu of making his own examination, the commissioner may accept a full report of the last recent examination of a nondomestic insurer or rating or advisory organization, or joint underwriting or joint reinsurance group, association or organization, certified to by the insurance supervisory official of the state of domicile or of entry.

(5) The commissioner may elect to accept and rely on an audit report made by an independent certified public accountant for the insurer in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his report of the examination. [1982 c 181 § 1; 1979 c 139 § 1; 1947 c 79 § .03.01; Rem. Supp. 1947 § 45.03.01.]

Severability—1982 c 181: "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." [1982 c 181 § 28.]

Chapter 48.04 HEARINGS AND APPEALS

Sections

48.04.020 Stay of action.

48.04.020 Stay of action. (1) Such demand for a hearing received by the commissioner prior to the effective date of action taken or proposed to be taken by him shall stay such action pending the hearing, except as to action taken or proposed

- (a) under an order on hearing, or
- (b) under an order pursuant to an order on hearing, or

(c) under an order to make good an impairment of the assets of an insurer, or

(d) under an order of temporary suspension of license issued pursuant to RCW 48.17.540 as now or hereafter amended.

(2) In any case where an automatic stay is not provided for, and if the commissioner after written request therefor fails to grant a stay, the person aggrieved thereby may apply to the superior court for Thurston county for a stay of the commissioner's action. [1982 c 181 § 2; 1949 c 190 § 3; 1947 c 79 § .04.02; Rem. Supp. 1949 § 45.04.02.]

Severability—1982 c 181: See note following RCW 48.03.010.

Chapter 48.05

INSURERS—GENERAL REQUIREMENTS

Sections

- 48.05.310 General agents, managers—Appointment—Powers—Licensing.
- 48.05.340 Capital and surplus requirements.

48.05.310 General agents, managers—Appointment—Powers—Licensing. (1) An insurer appointing any person as its general agent or manager to represent it as such in this state shall file notice of the appointment with the commissioner on forms prescribed and furnished by the commissioner.

(2) Any such general agent or manager shall have such authority, consistent with this code, as may be conferred by the insurer. A general agent resident in this state and licensed, as in this section provided, may exercise the powers conferred by this code upon agents licensed for the kinds of insurance which the general agent is authorized to transact for the insurer so appointing him.

(3) Any such general agent may accept applications for insurance from licensed agents who are not appointed by the insurer of such general agent where the risk involved is placed in a nonstandard or specialty market of an authorized insurer as defined by regulation of the commissioner. Such nonstandard or specialty business shall not be bound by any agent not appointed by the insurer. A general agent may supply such licensed, nonappointed agent with material to write nonstandard or specialty insurance business including, but not limited to, applications for insurance, underwriting criteria, and rates. A general agent shall not provide any licensed, nonappointed agent with indicia of authority to bind an insurance risk and the general agent and nonappointed agent shall provide written disclaimers of binding authority to an applicant or prospective insured in such form as prescribed by the commissioner.

(4) The appointment of a resident general agent shall not be effective unless the person so appointed is licensed as the general agent of such insurer by the commissioner upon application and payment of the fee therefor as provided in RCW 48.14.010.

(5) Every such license shall expire as at close of business on the thirty-first day of March next following the

date of issue, and may be renewed for an additional year upon application and payment of the fee therefor.

(6) The commissioner may deny, suspend, or revoke any such license for any cause specified in RCW 48.17.530 and in the manner provided in RCW 48.17.540. [1982 c 181 § 17; 1947 c 79 § .05.31; Rem. Supp. 1947 § 45.05.31.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.05.340 Capital and surplus requirements. (1) Subject to RCW 48.05.350 and 48.05.360 to qualify for authority to transact any one kind of insurance as defined in chapter 48.11 RCW or combination of kinds of insurance as shown below, a foreign or alien insurer, whether stock or mutual, or a domestic insurer hereafter formed shall possess and thereafter maintain unimpaired paid-in capital stock, if a stock insurer, or unimpaired surplus if a mutual insurer, and shall possess when first so authorized additional funds in surplus as follows:

Kind or kinds of insurance	Paid-in capital stock or basic surplus	Additional surplus
Life	\$1,000,000	\$1,000,000
Disability	1,000,000	1,000,000
Life and disability	1,200,000	1,200,000
Property	1,000,000	1,000,000
Marine & transportation	1,000,000	1,000,000
General casualty	1,200,000	1,200,000
Vehicle	1,000,000	1,000,000
Surety	1,000,000	1,000,000
Any two of the following kinds of insurance: Property, marine & transportation, general casualty, vehicle, surety, disability	1,500,000	1,500,000
Multiple lines (all insurances except life and title insurance)	1,500,000	1,500,000
Title (in accordance with the provisions of chapter 48.29 RCW)		

(2) Capital and surplus requirements are based upon all the kinds of insurance transacted by the insurer wherever it may operate or propose to operate, whether or not only a portion of such kinds are to be transacted in this state.

(3) An insurer holding a certificate of authority to transact insurance in this state immediately prior to July 1, 1980, may continue to be authorized to transact the same kinds of insurance as long as it is otherwise qualified for such authority and thereafter maintains unimpaired the amount of paid-in capital stock, if a stock insurer, or basic surplus, if a mutual or reciprocal insurer, and special surplus as required of it under laws in force immediately prior to such effective date; and any proposed domestic insurer which is in process of formation or financing under a solicitation permit which is outstanding immediately prior to July 1, 1980, shall, if otherwise qualified therefor, be authorized to transact

any kind or kinds of insurance upon the basis of the capital and surplus requirements of such an insurer under the laws in force immediately prior to such effective date: *Provided*, That any applicable action pending from the period between June 8, 1967, and July 1, 1980, shall be governed by this section as then in effect. [1982 c 181 § 3; 1980 c 135 § 1; 1967 c 150 § 5; 1963 c 195 § 7.]

Severability—1982 c 181: See note following RCW 48.03.010.
Fraternal benefit societies—Minimum requirements for new societies: RCW 48.36.010.

Chapter 48.12 ASSETS AND LIABILITIES

Sections	
48.12.020	Nonallowable assets.
48.12.150	Repealed.

48.12.020 Nonallowable assets. In addition to assets impliedly excluded under RCW 48.12.010, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Goodwill, except in accordance with regulations prescribed by the commissioner, trade names, agency plants and other like intangible assets.

(2) Prepaid or deferred charges for expenses and commissions paid by the insurer.

(3) Advances to officers (other than policy loans or loans made pursuant to RCW 48.07.130), whether secured or not, and advances to employees, agents and other persons on personal security only.

(4) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock through the ownership by such insurer of an interest in another firm, corporation or business unit.

(5) Furniture, furnishings, fixtures, safes, equipment, vehicles, library, stationery, literature, and supplies; except, electronic and mechanical machines authorized by subsection (11) of RCW 48.12.010, or such personal property as the insurer is permitted to hold pursuant to paragraph (e) of subsection (2) of RCW 48.13.160, or which is acquired through foreclosure of chattel mortgages acquired pursuant to RCW 48.13.150, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes.

(6) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code. [1982 c 218 § 1; 1963 c 195 § 12; 1947 c 79 § .12.02; Rem. Supp. 1947 § 45.12.02.]

Severability—1982 c 218: "If any provision of this 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." [1982 c 218 § 7.]

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

Chapter 48.13 INVESTMENTS

Sections	
48.13.020	General qualifications.
48.13.220	Common stocks—Investment—Acquisition—Engaging in certain businesses.
48.13.240	Miscellaneous investments.
48.13.270	Prohibited investments.
48.13.290	Disposal of ineligible property or securities.

48.13.020 General qualifications. (1) No security or other investment shall be eligible for purchase or acquisition under this chapter unless it is interest bearing or interest accruing or dividend or income paying, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon; except,

(a) that an insurer may acquire real property as provided in RCW 48.13.160, and

(b) that this section shall not prevent participation by an insurer in a mortgage loan if the insurer holds a senior participation in such mortgage or deed of trust giving it substantially the rights of a first mortgagee as to its interest in that loan.

(2) No security shall be eligible for purchase at a price above its market value except voting stock of a corporation being acquired as a subsidiary.

(3) No provision of this chapter shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or if acquired pursuant to a lawful and bona fide agreement of bulk reinsurance or consolidation. Any investments so acquired through bulk reinsurance or consolidation, which are not otherwise eligible under this chapter, shall be disposed of pursuant to RCW 48.13.290 if personal property or securities, or pursuant to RCW 48.13.170 if real property. [1982 c 218 § 2; 1967 ex.s. c 95 § 11; 1947 c 79 § .13.02; Rem. Supp. 1947 § 45.13.02.]

Severability—1982 c 218: See note following RCW 48.12.020.

48.13.220 Common stocks—Investment—Acquisition—Engaging in certain businesses. (1) After satisfying the requirements of RCW 48.13.260, an insurer may invest any of its funds in common shares of stock in solvent United States corporations that qualify as a sound investment; except, that as to life insurers such investments shall further not aggregate an amount in excess of fifty percent of the insurer's surplus over its minimum required surplus.

(2) The insurer shall not invest in or loan upon the security of more than ten percent of the outstanding common shares of any one such corporation, subject further to the aggregate investment limitation of RCW 48.13.030.

(3) The limitations of subsection (2) of this section shall not apply to investment in the securities of any subsidiary corporations of the insurer which are engaged or organized to engage exclusively in one or more of the following businesses:

(a) Acting as an insurance agent for its parent or for any of its parent's insurer subsidiaries or affiliates;

(b) Investing, reinvesting, or trading in securities or acting as a securities broker or dealer for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(c) Rendering management, sales, or other related services to any investment company subject to the Federal Investment Company Act of 1940, as amended;

(d) Rendering investment advice;

(e) Rendering services related to the functions involved in the operation of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims appraisal, and collection services;

(f) Acting as administrator of employee welfare benefit and pension plans for governments, government agencies, corporations, or other organizations or groups;

(g) Ownership and management of assets which the parent could itself own and manage: *Provided*, That the aggregate investment by the insurer and its subsidiaries acquired pursuant to this paragraph shall not exceed the limitations otherwise applicable to such investments by the parent;

(h) Acting as administrative agent for a government instrumentality which is performing an insurance function or is responsible for a health or welfare program;

(i) Financing of insurance premiums;

(j) Any other business activity reasonably ancillary to an insurance business;

(k) Owning one or more subsidiary (i) insurers to the extent permitted by this chapter, or (ii) businesses specified in paragraphs (a) through (k) of this subsection inclusive, or (iii) other businesses the stock of which is eligible under RCW 48.13.240 or 48.13.250, or any combination of such insurers and businesses.

(4) No acquisition of a majority of the total outstanding common shares of any corporation shall be made pursuant to this section unless a notice of intention of such proposed acquisition shall have been filed with the commissioner not less than ninety days, or such shorter period as may be permitted by the commissioner, in advance of such proposed acquisition, nor shall any such acquisition be made if the commissioner at any time prior to the expiration of the notice period finds that the proposed acquisition is contrary to law, or determines that such proposed acquisition would be contrary to the best interests of the parent insurer's policyholders or of the people of this state. The following shall be the only factors to be considered in making the foregoing determination:

(a) The availability of the funds or assets required for such acquisition;

(b) The fairness of any exchange of stock, assets, cash, or other consideration for the stock or assets to be received;

(c) The impact of the new operation on the parent insurer's surplus and existing insurance business and the risks inherent in the parent insurer's investment portfolio and operations;

(d) The fairness and adequacy of the financing proposed for the subsidiary;

(e) The likelihood of undue concentration of economic power;

(f) Whether the effect of the acquisition may be substantially to lessen competition in any line of commerce in insurance or to tend to create a monopoly therein; and

(g) Whether the acquisition might result in an excessive proliferation of subsidiaries which would tend to unduly dilute management effectiveness or weaken financial strength or otherwise be contrary to the best interests of the parent insurer's policyholders or of the people of this state. At any time after an acquisition, the commissioner may order its disposition if he finds, after notice and hearing, that its continued retention is hazardous or prejudicial to the interests of the parent insurer's policyholders. The contents of each notice of intention of a proposed acquisition filed hereunder and information pertaining thereto shall be kept confidential, shall not be subject to subpoena, and shall not be made public unless after notice and hearing the commissioner determines that the interests of policyholders, stockholders, or the public will be served by the publication thereof.

(5) A domestic insurance company may, provided that it maintains books and records which separately account for such business, engage directly in any business referred to in paragraphs (d), (e), (h), and (j) of subsection (3) of this section either to the extent necessarily or properly incidental to the insurance business the insurer is authorized to do in this state or to the extent approved by the commissioner and subject to any limitations he may prescribe for the protection of the interests of the policyholders of the insurer after taking into account the effect of such business on the insurer's existing insurance business and its surplus, the proposed allocation of the estimated cost of such business, and the risks inherent in such business as well as the relative advantages to the insurer and its policyholders of conducting such business directly instead of through a subsidiary. [1982 c 218 § 3; 1973 c 151 § 4; 1949 c 190 § 18; 1947 c 79 § .13.22; Rem. Supp. 1949 § 45.13.22.]

Severability—1982 c 218: See note following RCW 48.12.020.

48.13.240 Miscellaneous investments. (1) An insurer may loan or invest its funds in an aggregate amount not exceeding the lesser of the following sums: Ten percent of its assets, or fifty percent of its surplus over its capital and other liabilities, or if a mutual or reciprocal insurer fifty percent of its surplus over minimum required surplus, in loans or investments not otherwise eligible for investment and not specifically prohibited by RCW 48.13.270.

(2) No such loan or investment shall be any item described in RCW 48.12.020.

(3) No such investment in or loan upon the security of any one person or entity shall exceed the amount specified in subsection (1) of this section or one percent of the insurer's assets, whichever is the lesser, except that this subsection (3) shall not apply to an investment in the stock of a subsidiary company.

(4) The insurer shall keep a separate record of all investments acquired under this section. [1982 c 218 § 4; 1947 c 79 § .13.24; Rem. Supp. 1947 § 45.13.24.]

Severability—1982 c 218: See note following RCW 48.12.020.

48.13.270 Prohibited investments. An insurer shall not, except with the commissioner's approval in advance, invest in or loan its funds upon the security of, or hold:

(1) Issued shares of its own capital stock, except for the purpose of mutualization in accordance with RCW 48.08.080;

(2) Securities issued by any corporation, except as specifically authorized by this chapter directly or by exception, if a majority of the outstanding stock of such corporation, or a majority of its stock having voting powers, is or will be after such acquisition, directly or indirectly owned by the insurer, or by any combination of the insurer and the insurer's directors, officers, parent corporation, and subsidiaries;

(3) Securities issued by any corporation if a majority of its stock having voting power is owned directly or indirectly by or for the benefit of any one or more of the insurer's officers and directors;

(4) Any investment or loan ineligible under the provisions of RCW 48.13.030;

(5) Securities issued by any insolvent corporation;

(6) Any investment or security which is found by the commissioner to be designed to evade any prohibition of this code. [1982 c 218 § 5; 1947 c 79 § .13.27; Rem. Supp. 1947 § 45.13.27.]

Severability—1982 c 218: See note following RCW 48.12.020.

48.13.290 Disposal of ineligible property or securities. (1) Any ineligible personal property or securities acquired by an insurer may be required to be disposed of within the time not less than six months specified by order of the commissioner, unless before that time it attains the standard of eligibility, if retention of such property or securities would be contrary to the policyholders or public interest in that it tends to substantially lessen competition in the insurance business or threatens impairment of the financial condition of the insurer.

(2) Any personal property or securities acquired by an insurer contrary to RCW 48.13.270 shall be disposed of forthwith or within any period specified by order of the commissioner.

(3) Any property or securities ineligible only because of being excess of the amount permitted under this chapter to be invested in the category to which it belongs shall be ineligible only to the extent of such excess. [1982 c 218 § 6; 1973 c 151 § 5; 1947 c 79 § .13.29; Rem. Supp. 1947 § 45.13.29.]

Severability—1982 c 218: See note following RCW 48.12.020.

Chapter 48.14 FEES AND TAXES

Sections

- 48.14.015 Fees for filing rates and forms.
48.14.020 Premium taxes—Temporary additional taxes.

48.14.025 Prepayment of tax obligations under RCW 48.14.020.

48.14.015 Fees for filing rates and forms. The commissioner shall by regulation establish the amount of the filing fee for filing insurance rates and forms. In fixing said fee, which shall not exceed twenty dollars per filing, the commissioner shall, insofar as practicable, fix the fee in such a manner that the income will match the anticipated expenses to be incurred in connection with the regulation of rates and forms filings as required by statute. [1982 1st ex.s. c 9 § 35.]

48.14.020 Premium taxes—Temporary additional taxes. (1) Subject to other provisions of this chapter, each authorized insurer except title insurers shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (2) of this section, such tax shall be in the amount of two and sixteen one-hundredths percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer during the preceding calendar year in the case of foreign and alien insurers, and in the amount of one and sixteen one-hundredths percent of all such premiums in the case of domestic insurers, for direct insurances, other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(2) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two and sixteen one-hundredths percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

(3) From and after the first day of April, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the taxes payable under subsections (1) and (2) of this section. All revenues from this additional tax shall be deposited in the state general fund.

(4) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year

pay to the state treasurer through the commissioner's office a tax of ninety-one one-hundredths of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

(5) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their agents, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or their agents.

(6) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums.

(7) This section shall be effective as to and shall govern the payment of all taxes due for calendar year 1982 and thereafter. [1982 2nd ex.s. c 10 § 1; 1982 1st ex.s. c 35 § 15; 1979 ex.s. c 233 § 2; 1969 ex.s. c 241 § 9; 1947 c 79 § .14.02; Rem. Supp. 1947 § 45.14.02.]

Payment of additional premium tax: "The additional premium tax payments required by the amendment of RCW 48.14.020 by section 1 of this act shall be paid to the state treasurer through the insurance commissioner's office on March 1, 1983. Thereafter the prepayment schedule provided by RCW 48.14.025 shall apply." [1982 2nd ex.s. c 10 § 2.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective date—1979 ex.s. c 233: "This 1979 amendatory act shall become effective beginning upon and after January 1, 1980." [1979 ex.s. c 233 § 4.]

Intent—1979 ex.s. c 233: "It is the intent of the legislature to eliminate existing tax discrimination between qualified and nonqualified pension plans which are effectuated by annuity contracts, by excluding the consideration paid for such contracts from premiums subject to the premium tax." [1979 ex.s. c 233 § 1.]

Severability—1979 ex.s. c 233: "If any provision of this 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." [1979 ex.s. c 233 § 3.]

Credit against premium tax for assessments paid pursuant to RCW 48.32.060(1)(c): RCW 48.32.145.

Portion of state taxes on fire insurance premiums to be deposited in firemen's pension fund: RCW 41.16.050.
volunteer firemen's relief and pension fund: RCW 41.24.030.

48.14.025 Prepayment of tax obligations under RCW 48.14.020. (1) Every insurer with a tax obligation under RCW 48.14.020 shall make prepayment of the tax obligations under RCW 48.14.020 for the current calendar year's business, if the sum of the tax obligations under

RCW 48.14.020 for the preceding calendar year's business is four hundred dollars or more.

(2) The commissioner shall credit the prepayment toward the appropriate tax obligations of the insurer for the current calendar year under RCW 48.14.020.

(3) The minimum amounts of the prepayments shall be percentages of the insurer's tax obligation based on the preceding calendar year's business and shall be paid to the state treasurer through the commissioner's office by the due dates and in the following amounts:

(a) On or before June 15, forty-five percent;

(b) On or before September 15, twenty-five percent; and

(c) On or before December 15, twenty-five percent.

For good cause demonstrated in writing, the commissioner may approve an amount smaller than the preceding calendar year's business as the base for calculating the insurer's prepayment obligations.

(4) The effect of transferring policies of insurance from one insurer to another insurer is to transfer the tax prepayment obligation with respect to the policies.

(5) On or before June 1 of each year, the commissioner shall notify each insurer required to make prepayments in that year of the amount of each prepayment and shall provide remittance forms to be used by the insurer. However, an insurer's responsibility to make prepayments is not affected by failure of the commissioner to send, or the insurer to receive, the notice or forms. [1982 c 181 § 4; 1981 c 6 § 1.]

Severability—1982 c 181: See note following RCW 48.03.010.

Chapter 48.15

UNAUTHORIZED INSURERS

Sections

48.15.070 Surplus line brokers—Licensing.

48.15.070 Surplus line brokers—Licensing. Any individual while a resident of this state, or any firm or any corporation that has in its employ a qualified individual who is a resident of this state and who is authorized to exercise the powers of the firm or corporation, deemed by the commissioner to be competent and trustworthy, and while maintaining an office at a designated location in this state, may be licensed as a surplus line broker in accordance with this section.

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner.

(2) The license fee shall be one hundred dollars for each license year during any part of which the license is in force. The annual renewal date shall be determined by the commissioner. The commissioner shall adopt a rule providing for the proration, on a quarterly basis, of the license fee. The proration shall be applicable only: (a) To applicants who apply for a license after the expiration of the first quarter of any license year, or (b) to licensees whose licenses would exist for less than nine months as a result of the adoption of the annual renewal date.

(3) Prior to issuance of license the applicant shall file with the commissioner a bond in favor of the state of Washington in the penal sum of twenty thousand dollars, with authorized corporate sureties approved by the commissioner, conditioned that he will conduct business under the license in accordance with the provisions of this chapter and that he will promptly remit the taxes provided by RCW 48.15.120. The licensee shall maintain such bond in force for as long as the license remains in effect.

(4) Every applicant for a surplus line broker's license or for the renewal of a surplus line broker's license shall file with the application or request for renewal a bond in favor of the people of the state of Washington, executed by an authorized corporate surety approved by the commissioner, in the amount of fifty thousand dollars and shall be the bonding requirement for new licensees. The licensee shall maintain such bond in force while so licensed. The bond may be continuous in form, and total aggregate liability on the bond may be limited to the amount stated in the bond. The bond shall be contingent on the accounting by the surplus line broker to any person requesting such broker to obtain insurance, for monies or premiums collected in connection therewith. A bond issued in accordance with RCW 48.17.250 or with this subsection will satisfy the requirements of both RCW 48.17.250 and this subsection if the limit of liability is not less than the greater of the requirement of RCW 48.17.250 or the requirement of this subsection.

(5) Any bond issued pursuant to subsection (3) or (4) of this section shall remain in force until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to such cancellation, the surety may cancel the bond upon thirty days' advance notice in writing filed with the commissioner.

(6) For the purposes of this section, a "qualified individual" is a natural person who has met all the requirements that must be met by an individual surplus line broker. [1982 c 181 § 5; 1981 c 199 § 1; 1980 c 102 § 3; 1979 ex.s. c 130 § 3; 1977 ex.s. c 182 § 2; 1959 c 225 § 4; 1947 c 79 § .15.07; Rem. Supp. 1947 § 45.15.07.]

Severability—1982 c 181: See note following RCW 48.03.010.

Chapter 48.17

AGENTS, BROKERS, SOLICITORS, AND ADJUSTERS

Sections

48.17.090	Application for license.
48.17.510	Temporary licenses.
48.17.540	Procedure to suspend, revoke, or refuse—Effect of conviction of felony.

48.17.090 Application for license. (1) Application for any such license shall be made to the commissioner upon forms as prescribed and furnished by him. As a part of or in connection with any such application the applicant

shall furnish information concerning his identity, including his fingerprints, personal history, experience, business record, purposes, and other pertinent facts, as the commissioner may reasonably require.

(2) Any person wilfully misrepresenting any fact required to be disclosed in any such application shall be liable to penalties as provided by this code.

(3) If in the process of verifying fingerprints, business records, or other information the commissioner's office incurs fees or charges from another governmental agency or from a business firm, the amount of such fees or charges shall be paid to the commissioner's office by the applicant and shall be considered the recovery of a previous expenditure. [1982 c 181 § 6; 1981 c 339 § 10; 1967 c 150 § 15; 1947 c 79 § .17.09; Rem. Supp. 1947 § 45.17.09.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.17.510 Temporary licenses. (1) The commissioner may issue an agent's or broker's temporary license in the following circumstances:

(a) To the surviving spouse or next of kin or to the administrator or executor, or the employee of the administrator or executor, of a licensed agent or broker becoming deceased.

(b) To the spouse, next of kin, employee, or legal guardian of a licensed agent or broker becoming disabled because of sickness, insanity, or injury.

(c) To a surviving member of a firm or surviving officer or employee of a corporation licensed as agent or broker upon the death of an individual designated in the firm or corporation's license to exercise powers thereunder.

(2) An individual to be eligible for any such temporary license must be qualified as for a permanent license except as to experience, training, or the taking of any examination.

(3) Any fee paid to the commissioner for issuance of a temporary license as specified in RCW 48.14.010 shall be credited toward the fee required for a permanent license which is issued to replace the temporary license prior to the expiration of such temporary license. [1982 c 181 § 7; 1955 c 303 § 15; 1953 c 197 § 8; 1947 c 79 § .17.51; Rem. Supp. 1947 § 45.17.51.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.17.540 Procedure to suspend, revoke, or refuse—Effect of conviction of felony. (1) The commissioner may revoke or refuse to renew any license issued under this chapter, or any surplus line broker's license, immediately and without hearing, upon sentencing of the licensee for conviction of a felony by final judgment of any court of competent jurisdiction, if the facts giving rise to such conviction demonstrate the licensee to be untrustworthy to maintain any such license.

(2) The commissioner may suspend, revoke, or refuse to renew any such license:

(a) By order given to the licensee not less than fifteen days prior to the effective date thereof, subject to the

right of the licensee to have a hearing as provided in RCW 48.04.010; or

(b) By an order on hearing made as provided in RCW 34.04.120 effective not less than ten days after date of the giving of the order, subject to the right of the licensee to appeal to the superior court.

(3) The commissioner may temporarily suspend such license by order given to the licensee not less than three days prior to the effective date thereof, provided the order contains a notice of revocation and includes a finding that the public safety or welfare imperatively requires emergency action. Such suspension shall continue only until proceedings for revocation are concluded. [1982 c 181 § 8; 1973 1st ex.s. c 107 § 2; 1967 c 150 § 24; 1947 c 79 § .17.54; Rem. Supp. 1947 § 45.17.54.]

Severability—1982 c 181: See note following RCW 48.03.010.

Severability—1973 1st ex.s. c 107: See note following RCW 48.17.330.

Chapter 48.18

THE INSURANCE CONTRACT

Sections

48.18.100	Forms of policies—Filing, certification, and approval.
48.18.110	Grounds for disapproval.
48.18.290	Cancellation by insurer.

48.18.100 Forms of policies—Filing, certification, and approval. (1) No insurance policy form other than surety bond forms, or application form where written application is required and is to be attached to the policy, or printed life or disability rider or endorsement form shall be issued, delivered, or used unless it has been filed with and approved by the commissioner. This section shall not apply to policies, riders or endorsements of unique character designed for and used with relation to insurance upon a particular subject.

(2) Every such filing containing a certification, in a form approved by the commissioner, by either the chief executive officer of the insurer or by an actuary who is a member of the American Academy of Actuaries, attesting that the filing complies with Title 48 RCW and Title 284 of the Washington Administrative Code, may be used by such insurer immediately after filing with the commissioner. The commissioner may order an insurer to cease using a certified form upon the grounds set forth in RCW 48.18.110. This subsection shall not apply to certain types of policy forms designated by the commissioner by rule.

(3) Every filing that does not contain a certification pursuant to subsection (2) of this section shall be made not less than fifteen days in advance of any such issuance, delivery, or use. At the expiration of such fifteen days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. The commissioner may extend by not more than an additional fifteen days the period within which he may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial fifteen-day period. At the expiration of any such period as so

extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may withdraw any such approval at any time for cause. By approval of any such form for immediate use, the commissioner may waive any unexpired portion of such initial fifteen-day waiting period.

(4) The commissioner's order disapproving any such form or withdrawing a previous approval shall state the grounds therefor.

(5) No such form shall knowingly be so issued or delivered as to which the commissioner's approval does not then exist.

(6) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper, any insurance document or form or type thereof as specified in such order, to which in his opinion this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public. [1982 c 181 § 16; 1947 c 79 § .18.10; Rem. Supp. 1947 § 45.18.10.]

Severability—1982 c 181: See note following RCW 48.03.010.

Format of disability policies: RCW 48.20.012.

48.18.110 Grounds for disapproval. (1) The commissioner shall disapprove any such form of policy, application, rider, or endorsement, or withdraw any previous approval thereof, only:

(a) If it is in any respect in violation of or does not comply with this code or any applicable order or regulation of the commissioner pursuant to the code; or

(b) If it does not comply with any controlling filing theretofore made and approved; or

(c) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(d) If it has any title, heading, or other indication of its provisions which is misleading; or

(e) If purchase of insurance thereunder is being solicited by deceptive advertising.

(2) In addition to the grounds for disapproval of any such form as provided in subsection (1) of this section, the commissioner may disapprove any form of disability insurance policy if the benefits provided therein are unreasonable in relation to the premium charged. [1982 c 181 § 9; 1947 c 79 § .18.11; Rem. Supp. 1947 § 45.18.11.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.18.290 Cancellation by insurer. (1) Cancellation by the insurer of any policy which by its terms is cancellable at the option of the insurer, or of any binder based on such policy, may be effected as to any interest only upon compliance with either or both of the following:

(a) Written notice of such cancellation must be actually delivered or mailed to the insured or to his representative in charge of the subject of the insurance not less than twenty days prior to the effective date of the

cancellation except for cancellation of insurance policies for nonpayment of premiums, which notice shall be not less than ten days prior to such date and except for cancellation of fire insurance policies under chapter 48.53 RCW, which notice shall not be less than five days prior to such date;

(b) Like notice of not less than twenty days must also be so delivered or mailed to each mortgagee, pledgee, or other person shown by the policy to have an interest in any loss which may occur thereunder.

(2) The mailing of any such notice shall be effected by depositing it in a sealed envelope, directed to the addressee at his last address as known to the insurer or as shown by the insurer's records, with proper prepaid postage affixed, in a letter depository of the United States post office. The insurer shall retain in its records any such item so mailed, together with its envelope, which was returned by the post office upon failure to find, or deliver the mailing to, the addressee.

(3) The affidavit of the individual making or supervising such a mailing, shall constitute prima facie evidence of such facts of the mailing as are therein affirmed.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in amount as computed on the pro rata basis, must be actually paid to the insured or other person entitled thereto as shown by the policy or by any endorsement thereon, or be mailed to the insured or such person as soon as possible, and no later than thirty days after the date of notice of cancellation to the insured for homeowners', dwelling fire, and private passenger auto. Any such payment may be made by cash, or by check, bank draft, or money order.

(5) This section shall not apply to contracts of life or disability insurance without provision for cancellation prior to the date to which premiums have been paid. [1982 c 110 § 7; 1980 c 102 § 7; 1979 ex.s. c 199 § 5; 1975-'76 2nd ex.s. c 119 § 2; 1947 c 79 § .18.29; Rem. Supp. 1947 § 45.18.29.]

Chapter 48.18A VARIABLE CONTRACT ACT

Sections

- 48.18A.035 Right of return by policyholder—Notice required.
48.18A.040 Requirements for operation under this chapter—
Considerations—Authorization of subsidiary or affiliate—Exceptions.

48.18A.035 Right of return by policyholder—Notice required. Every individual variable contract issued after May 1, 1982, shall have printed on its face or attached thereto a notice stating in substance that the policy owner shall be permitted to return the policy within ten days after it is received by the policy owner and to have the market value of the assets purchased by its premium, less taxes and brokerage commissions, if any, refunded, if, after examination of the policy, the policy owner is not satisfied with it for any reason. If a policy owner pursuant to such notice returns the policy to the

insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued. [1982 c 181 § 15.]

Effective date—1982 c 181 § 15: "RCW 48.18A.035 is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1982." [1982 c 181 § 26.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.18A.040 Requirements for operation under this chapter—Considerations—Authorization of subsidiary or affiliate—Exceptions. No insurer shall deliver or issue, for delivery within this state, contracts under this chapter unless it is licensed or organized to do a life insurance or annuity business in this state, and unless the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider among other things:

- (1) The history and financial condition of the insurer;
- (2) The character, responsibility and fitness of the officers and directors of the insurer; and
- (3) The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

An insurer which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurer authorized to do business in this state may be deemed to have met the provisions of this section if either it or the parent or affiliated company meets the requirements hereof: *Provided*, That no insurer may provide variable benefits in its contracts unless it is an admitted insurer having and continually maintaining a combined capital and surplus of at least five million dollars. [1982 c 181 § 10; 1969 c 104 § 4.]

Severability—1982 c 181: See note following RCW 48.03.010.

Chapter 48.20 DISABILITY INSURANCE

Sections

- 48.20.182 Optional standard provision No. 14—Misstatement of age or sex—Adjustment of overpayments or underpayments.

48.20.182 Optional standard provision No. 14—Misstatement of age or sex—Adjustment of overpayments or underpayments. There may be a provision as follows:

"MISSTATEMENT OF AGE OR SEX: If the age or sex of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age or sex."

The amount of any underpayments which may have been made on account of any such misstatement under a disability income policy shall be paid the insured along

with the current payment and the amount of any overpayment may be charged against the current or succeeding payments to be made by the insurer. Interest may be applied to such underpayments or overpayments as specified in the insurance policy form but not exceeding six percent per annum. [1982 c 181 § 11; 1951 c 229 § 19. Prior: 1947 c 79 § .20.28; Rem. Supp. 1947 § 45.20.28.]

Severability—1982 c 181: See note following RCW 48.03.010.

Chapter 48.23

LIFE INSURANCE AND ANNUITIES

Sections

48.23.075	Participation in surplus—Requirements for forms.
48.23.180	Misstatement of age or sex—Annuities, pure endowments.
48.23.200	Nonforfeiture benefits—Annuities, pure endowments.
48.23.350	Repealed.
48.23.370	Duties of insurer issuing both participating and nonparticipating policies—Rules.
48.23.410	Short title.
48.23.420	Inapplicability of enumerated sections to certain policies.
48.23.430	Paid-up annuity and cash surrender provisions required.
48.23.440	Minimum nonforfeiture amounts.
48.23.450	Minimum present value of paid-up annuity benefit.
48.23.460	Minimum cash surrender benefits—Death benefit.
48.23.470	Contracts without cash surrender, death benefits—Minimum present value of paid-up annuity benefits.
48.23.480	Optional maturity dates.
48.23.490	Statement required in contract without cash surrender or death benefits.
48.23.500	Calculation of benefits available other than on contract anniversary.
48.23.510	Additional benefits.
48.23.520	Operative date of RCW 48.23.410 through 48.23.520.

48.23.075 Participation in surplus—Requirements for forms. (1) Life insurance and annuity policy forms of the following types shall be defined and designated as participating forms of insurance only if they contain a provision for participation in the insurer's surplus, and shall be defined and designated as nonparticipating forms if they do not contain a provision for participation in the insurer's surplus:

(a) Forms which provide that the premium or consideration at the time of issue and subsequent premiums or considerations will be established by the insurer based on current, or then current, projected assumptions for such factors as interest, mortality, persistency, expense, or other factors, subject to a maximum guaranteed premium or premiums set forth in the policy; and

(b) Forms (except those for variable life insurance and variable annuity plans which are subject to chapter 48.18A RCW) which provide that their premiums or considerations are credited to an account to which interest is credited, and from which the cost of any life insurance or annuity benefits or other benefits or specified expenses are deducted.

(2) The commissioner may by regulation further clarify the definitions and requirements contained in subsection (1) of this section, and may classify any other types

of forms as participating or nonparticipating, consistent therewith. [1982 c 181 § 19.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.23.180 Misstatement of age or sex—Annuities, pure endowments. In such contracts there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or if any of them has been misstated, the amount payable or benefit accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex; and that if the insurer shall make or has made any underpayment or underpayments or any overpayment or overpayments on account of any such misstatement, the amount thereof, with interest at the rate to be specified in the contract but not exceeding six percent per annum, shall, in the case of underpayment, be paid the insured or, in the case of overpayment, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract. [1982 c 181 § 12; 1947 c 79 § .23.18; Rem. Supp. 1947 § 45.23.18.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.23.200 Nonforfeiture benefits—Annuities, pure endowments. Such contracts issued after the operative date of RCW 48.23.360 and individual deferred annuities issued before the operative date of RCW 48.23.420 through 48.23.520 shall contain:

(1) A provision that in the event of default in any stipulated payment, the insurer will grant a paid-up nonforfeiture benefit on a plan stipulated in the contract, effective as of such date, of such value as is hereinafter specified.

(2) A statement of the mortality table and interest rate used in calculating the paid-up nonforfeiture benefit available under the contract.

(3) An explanation of the manner in which the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the contract or any indebtedness to the insurer on the contract. [1982 1st ex.s. c 9 § 34; 1979 c 157 § 3; 1947 c 79 § .23.20; Rem. Supp. 1947 § 45.23.20.]

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

48.23.370 Duties of insurer issuing both participating and nonparticipating policies—Rules. (1) A life insurer issuing both participating and nonparticipating policies shall maintain records which segregate the participating from the nonparticipating business and clearly show the profits and losses upon each such category of business.

(2) For the purposes of such accounting the insurer shall make a reasonable allocation as between the respective such categories of the expenses of such general operations or functions as are jointly shared. Any allocation of expense as between the respective categories shall be made upon a reasonable basis, to the end that each category shall bear a just portion of joint expense

involved in the administration of the business of such category.

(3) No policy hereafter delivered or issued for delivery in this state shall provide for, and no life insurer or representative shall hereafter knowingly offer or promise payment, credit or distribution of participating "dividends," "earnings," "profits," or "savings," by whatever name called, to participating policies out of such profits, earnings or savings on nonparticipating policies.

(4) The commissioner may promulgate rules for the purpose of assuring the equitable treatment of all policyholders so that one group of policyholders shall not support or be supported by another group of policyholders. [1982 c 181 § 13; 1965 ex.s. c 70 § 22.]

Severability—1982 c 181: See note following RCW 48.03.010.

48.23.410 Short title. RCW 48.23.420 through 48.23.520 shall be known as the standard nonforfeiture law for individual deferred annuities. [1982 1st ex.s. c 9 § 21.]

48.23.420 Inapplicability of enumerated sections to certain policies. RCW 48.23.420 through 48.23.520 do not apply to any reinsurance; group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended; premium deposit fund; variable annuity; investment annuity; immediate annuity; any deferred annuity contract after annuity payments have commenced; or reversionary annuity; nor to any contract which is delivered outside this state through an agent or other representative of the company issuing the contract. [1982 1st ex.s. c 9 § 22.]

48.23.430 Paid-up annuity and cash surrender provisions required. In the case of contracts issued on or after the operative date of this section as defined in RCW 48.23.520, no contract of annuity, except as stated in RCW 48.23.420, may be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in RCW 48.23.450, 48.23.460, 48.23.470, 48.23.480, and 48.23.500;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or before the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in RCW 48.23.450, 48.23.460, 48.23.480, and 48.23.500. The company shall reserve the

right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and

(4) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid before such period would be less than twenty dollars monthly, the company may at its option terminate the contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment is relieved of any further obligation under such contract. [1982 1st ex.s. c 9 § 23.]

48.23.440 Minimum nonforfeiture amounts. The minimum values as specified in RCW 48.23.450, 48.23.460, 48.23.470, 48.23.480, and 48.23.500 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments is equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations, as defined in this subsection, paid prior to such time, decreased by the sum of:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(b) The amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the

contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent.

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years; and

(b) The annual contract charge shall be the lesser of (i) thirty dollars or (ii) ten percent of the gross annual consideration.

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent and the net consideration shall be the gross consideration less a contract charge of seven-fifty dollars. [1982 1st ex.s. c 9 § 24.]

48.23.450 Minimum present value of paid-up annuity benefit. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract. [1982 1st ex.s. c 9 § 25.]

48.23.460 Minimum cash surrender benefits—Death benefit. For contracts which provide cash surrender benefits, such cash surrender benefits available before maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the

company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event may any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit. [1982 1st ex.s. c 9 § 26.]

48.23.470 Contracts without cash surrender, death benefits—Minimum present value of paid-up annuity benefits. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid before the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event may the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time. [1982 1st ex.s. c 9 § 27.]

48.23.480 Optional maturity dates. For the purpose of determining the benefits calculated under RCW 48.23.460 and 48.23.470, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election is permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later. [1982 1st ex.s. c 9 § 28.]

48.23.490 Statement required in contract without cash surrender or death benefits. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided. [1982 1st ex.s. c 9 § 29.]

48.23.500 Calculation of benefits available other than on contract anniversary. Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of

the contract year in which cessation of payment of considerations under the contract occurs. [1982 1st ex.s. c 9 § 30.]

48.23.510 Additional benefits. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of RCW 48.23.450, 48.23.460, 48.23.470, 48.23.480, and 48.23.500, additional benefits payable (1) in the event of total and permanent disability, (2) as reversionary annuity or deferred reversionary annuity benefits, or (3) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, or cash surrender and death benefits that may be required by RCW 48.23.410 through 48.23.520. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, or cash surrender and death benefits. [1982 1st ex.s. c 9 § 31.]

48.23.520 Operative date of RCW 48.23.410 through 48.23.520. After July 10, 1982, any company may file with the commissioner a written notice of its election to comply with the provisions of RCW 48.23.410 through 48.23.520 after a specified date before the second anniversary of July 10, 1982. After the filing of such notice, then upon such specified date, which shall be the operative date of RCW 48.23.410 through 48.23.520 for such company, RCW 48.23.410 through 48.23.520 shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of RCW 48.23.410 through 48.23.520 for such company shall be the second anniversary of July 10, 1982. [1982 1st ex.s. c 9 § 32.]

Chapter 48.24

GROUP LIFE AND ANNUITIES

Sections

48.24.035 Credit union groups.

48.24.035 Credit union groups. The lives of a group of individuals may be insured under a policy issued to a credit union, which shall be deemed the policyholder, to insure eligible members of such credit union for the benefit of persons other than the credit union or its officials, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of a credit union, or all

except any as to whom evidence of individual insurability is not satisfactory to the insurer, or all of any class or classes thereof determined by conditions pertaining to their age or membership in the credit union or both.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the credit union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued for which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance.

(3) The policy must cover at least twenty-five members at the date of issue.

(4) The amount of insurance under the policy shall not exceed the amount of the total shares and deposits of the member.

(5) As used herein, "credit union" means a credit union organized and operating under the federal credit union act of 1934 or chapter 31.12 RCW. [1982 c 181 § 14; 1961 c 194 § 8.]

Severability—1982 c 181: See note following RCW 48.03.010.

Chapter 48.30

UNFAIR PRACTICES AND FRAUDS

Sections

48.30.110 Contributions to candidates for insurance commissioner.

48.30.110 Contributions to candidates for insurance commissioner. (1) No insurer or fraternal benefit society doing business in this state shall directly or indirectly pay or use, or offer, consent, or agree to pay or use any money or thing of value for or in aid of any candidate for the office of insurance commissioner; nor for reimbursement or indemnification of any person for money or property so used.

(2) Any individual who violates any provision of this section, or who participates in, aids, abets, advises, or consents to any such violation, or who solicits or knowingly receives any money or thing of value in violation of this section, shall be guilty of a gross misdemeanor and shall be liable to the insurer or society for the amount so contributed or received. [1982 c 181 § 18; 1947 c 79 § .30.11; Rem. Supp. 1947 § 45.30.11.]

Severability—1982 c 181: See note following RCW 48.03.010.

Chapter 48.40

FUNERAL SERVICES

Sections

48.40.002 Repealed.
48.40.005 Repealed.
48.40.007 Repealed.
48.40.012 Repealed.
48.40.015 Repealed.
48.40.017 Repealed.
48.40.025 Repealed.
48.40.035 Repealed.
48.40.045 Repealed.
48.40.055 Repealed.
48.40.065 Repealed.

- 48.40.075 Repealed.
- 48.40.080 Repealed.
- 48.40.090 Repealed.
- 48.40.900 Repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 48.44

HEALTH CARE SERVICES

Sections

- 48.44.025 Repealed.
- 48.44.026 Payment for podiatry, chiropractic, dental, vision care.
- 48.44.250 Payment of premium by employee in event of suspension of compensation due to labor dispute.

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

48.44.026 Payment for podiatry, chiropractic, dental, vision care. Checks in payment for claims pursuant to any health care service contract for health care services provided by persons licensed or regulated under chapters 18.22, 18.25, 18.29, 18.32 or 18.53 RCW, where the provider is not a participant under a contract with the health care service contractor, shall be made out to both the provider and the insured, jointly, to require endorsement by each: *Provided*, That payment shall be made in the single name of the insured if the insured as part of his or her claim furnishes evidence of prepayment to the health care service provider: *And provided further*, That nothing in this section shall preclude a health care service contractor from voluntarily issuing payment in the single name of the provider. [1982 c 168 § 1.]

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 contract holder 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 health care service contractor to make normal decreases or increases of the premium rate upon expiration and renewal of the contract, in accordance with the provisions of the contract. 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 contract holder 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. [1982 c 149 § 1; 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

48.46.020	Definitions. (Effective January 1, 1983.)
48.46.230	Surety bond, securities deposit—Amount— Waiver—Substitution of securities—Adjustment of amount. (Effective January 1, 1983.)
48.46.240	Funded reserve requirements—Exemption from other law.

48.46.020 Definitions. (Effective January 1, 1983.)

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.

(15) "Uncovered expenditures" means the costs of health care services that are covered by a health maintenance organization for which an enrolled participant would also be liable in the event of the health maintenance organization's insolvency. [1982 c 151 § 1; 1975 1st ex.s. c 290 § 3.]

Effective date—1982 c 151: "This act shall take effect on January 1, 1983." [1982 c 151 § 5.]

48.46.230 Surety bond, securities deposit—Amount—Waiver—Substitution of securities—Adjustment of amount. (Effective January 1, 1983.)

(1) Each health maintenance organization, as a requirement for receiving a certificate of registration by the commissioner under this chapter, shall provide a surety bond acceptable to the commissioner, or shall deposit with the commissioner or with any organization/trustee acceptable to him, cash or securities eligible for investment by the health maintenance organizations pursuant to chapter 48.13 RCW, or any combination of these or other deposits that are acceptable to him, in the amount set forth in this section as a guarantee that the uncovered expenditure obligations of the health maintenance organization to the enrolled participants will be performed.

(2)(a) For a health maintenance organization that is beginning operation, the amount shall be the greatest of:

(i) Five percent of its reasonably estimated expenditures for health care services for its first year of operation; (ii) three times its estimated average monthly uncovered expenditures for its first year of operation; or (iii) one hundred fifty thousand dollars.

(b) At the beginning of each succeeding year, unless not applicable, such a health maintenance organization shall deposit with the commissioner a surety bond acceptable to the commissioner, or cash or securities eligible for investment by the health maintenance organization pursuant to chapter 48.13 RCW, or any combination of these or other deposits acceptable to the commissioner in an amount equal to four percent of its reasonably estimated annual uncovered expenditures for that year. Each year's estimate, after the first year of operation, shall reasonably reflect the prior year's operating experience and delivery arrangements.

(3)(a) For a health maintenance organization that is in operation on January 1, 1983, unless not applicable under subsection (4) of this section, the amount shall be the greater of (i) one percent of the preceding twelve months of uncovered expenditures, or (ii) one hundred fifty thousand dollars, on the first day of the first fiscal year beginning six months or more after January 1, 1983.

(b) In the second fiscal year, if applicable, the amount of the additional deposit shall be equal to two percent of its reasonably estimated annual uncovered expenditures. In the third fiscal year, if applicable, the additional deposit shall be equal to three percent of its reasonably estimated annual uncovered expenditures for that year, and in the fourth fiscal year and subsequent years, if applicable, the additional deposit shall be equal to an amount of four percent of its reasonably estimated annual uncovered expenditures for each year. Each year's estimate, after the first year of operation shall reasonably reflect the prior year's operating experience and delivery arrangements.

(4)(a) A health maintenance organization shall no longer be required to make additional deposits as set forth under subsections (2) and (3) of this section if the total amount of its surety bond or deposit with the commissioner of cash, securities, or any combination of these or other deposits is equal to twenty-five percent of the health maintenance organization's reasonably estimated annual uncovered expenditures for the next calendar year.

(b) The annual deposit requirements set forth under subsections (2) and (3) of this section shall not apply to a health maintenance organization which has achieved (i) a total net worth not including land, buildings, and equipment of at least one million dollars, or (ii) a total net worth including land, buildings, and equipment of at least five million dollars: *Provided*, That the total net worth of at least five million dollars must at least be equal to twenty-five percent of the health maintenance organization's reasonably estimated annual uncovered expenditures for the next calendar year, and be equal to ten percent or more of its total assets.

(c) For a health maintenance organization which has a guaranteeing organization, the annual deposit requirement set forth in subsections (2) and (3) of this section shall not apply if the guaranteeing organization has been in operation for at least five years and has achieved (i) a total net worth not including land, buildings, and equipment of at least one million dollars, or (ii) a total net worth including land, buildings, and equipment at [of] at least five million dollars: *Provided*, That the total net worth of at least five million dollars must at least be equal to twenty-five percent of the health maintenance organization's reasonably estimated annual uncovered expenditures for the next calendar year, and be equal to ten percent or more of the guaranteeing organization's total assets: *Provided further*, That if the guaranteeing organization is sponsoring more than one health maintenance organization, the net worth requirement shall be increased by a multiple equal to the number of such health maintenance organizations.

(5) The commissioner may waive any of the deposit requirements set forth in subsections (2) and (3) of this section whenever satisfied that the health maintenance organization has sufficient net worth and an adequate history of generating net income to assure its financial viability for the next year, or its performance and obligations are guaranteed by an organization with sufficient net worth and an adequate history of generating net income, or the assets of the health maintenance organization or its contracts with insurers, providers, government, or other organizations are sufficient to reasonably assure the performance of its obligations.

(6) All income from securities on deposit with the commissioner shall belong to the depositing health maintenance organization and shall be paid to it as it becomes available.

(7) A health maintenance organization that has made a securities deposit with the commissioner may, at its option, withdraw the securities deposit or any part thereof after first having deposited or provided in lieu thereof a surety bond, a deposit of cash or securities, or any combination of these or other deposits of equal amount and value to that withdrawn. Any securities shall be subject to approval by the commissioner before being substituted.

(8) In any year in which, under subsection (4) of this section, an annual deposit is not required of a health maintenance organization, at its request, the commissioner shall lower the amount deposited by one hundred thousand dollars for each two hundred fifty thousand dollars of total net worth in excess of the amount that allows it not to make an annual deposit. If the total net worth of a health maintenance organization no longer supports a reduction of the amount it has deposited, it shall immediately redeposit one hundred thousand dollars for each two hundred fifty thousand dollars of reduction, so long as its total deposit does not exceed the maximum required under this section. [1982 c 151 § 2.]

Effective date—1982 c 151: See note following RCW 48.46.020.

48.46.240 Funded reserve requirements—Exemption from other law. (1) Each health maintenance organization obtaining a certificate of authority from the commissioner shall provide and maintain a funded reserve of one hundred fifty thousand dollars, which shall be in addition to any deposit or contingent reserve requirements set forth in RCW 48.46.230. The funded reserve shall be deposited with the commissioner or with any organization/trustee acceptable to him in the form of cash, securities eligible for investment by the health maintenance organization pursuant to chapter 48.13 RCW, or any combination of these or other measures that are acceptable to the commissioner, and must equal or exceed one hundred fifty thousand dollars. The funded reserve shall be established as a guarantee that the uncovered expenditure obligations of the health maintenance organization to the enrolled participants will be performed.

(2) Any health maintenance organization that is in operation on January 1, 1983, shall establish a funded reserve of one hundred thousand dollars within one year and accrue twenty-five thousand dollars on the first day of the second and third fiscal years following twelve months after January 1, 1983.

(3) Any health maintenance organization meeting the requirements of this section shall be exempt from the requirements of RCW 48.44.030. [1982 c 151 § 3.]

Effective date—1982 c 151: See note following RCW 48.46.020.

Chapter 48.53 FIRE INSURANCE— ARSON FRAUD REDUCTION

Sections	
48.53.010	Purpose.
48.53.020	Designation of high arson incidence areas and classes of occupancy—Anti-arson application, contents.
48.53.030	Cancellation of policy—Conditions required for.
48.53.040	Cancellation of policy—Procedure.
48.53.050	Issuance or cancellation of policy in violation of chapter.
48.53.060	Adoption of rules.

48.53.010 Purpose. It is the purpose of this chapter to reduce the incidence of arson fraud by requiring insurers to obtain specified information prior to issuing a fire insurance policy for certain structures and by authorizing insurers to cancel fire insurance policies when characteristics frequently associated with arson fraud are present. [1982 c 110 § 1.]

48.53.020 Designation of high arson incidence areas and classes of occupancy—Anti-arson application, contents. (1) The state fire marshal may designate certain classes of occupancy within a geographic area or may designate geographic areas as having an abnormally high incidence of arson. This designation shall not be a valid reason for cancellation, refusal to issue or renew, modification, or increasing the premium for any fire insurance policy.

(2) A fire insurance policy may not be issued to insure any property within a class of occupancy within a geographic area or within a geographic area designated by the state fire marshal as having an abnormally high incidence of arson until the applicant has submitted an anti-arson application and the insurer or the insurer's representative has inspected the property. The application shall be prescribed by the state fire marshal and shall contain but not be limited to the following:

(a) The name and address of the prospective insured and any mortgagees or other parties having an ownership interest in the property to be insured;

(b) The amount of insurance requested and the method of valuation used to establish the amount of insurance;

(c) The dates and selling prices of the property, if any, during the previous three years;

(d) Fire losses exceeding one thousand dollars during the previous five years for property in which the prospective insured held an equity interest or mortgage;

(e) Current corrective orders pertaining to fire, safety, health, building, or construction codes that have not been complied with within the time period or any extension of such time period authorized by the authority issuing such corrective order applicable to the property to be insured;

(f) Present or anticipated occupancy of the structure, and whether a certificate of occupancy has been issued;

(g) Signature and title, if any, of the person submitting the application.

(3) If the facts required to be reported by subsection (2) of this section materially change, the insured shall notify the insurer of any such change within fourteen days.

(4) An anti-arson application is not required for: (a) Fire insurance policies covering one to four-unit owner-occupied residential dwellings; (b) policies existing as of June 10, 1982; or (c) the renewal of these policies.

(5) An anti-arson application shall contain a notice stating: "Designation of a class of occupancy within a geographic area or geographic areas as having an abnormally high incidence of arson shall not be a valid reason for cancellation, refusal to issue or renew, modification, or increasing the premium for any fire insurance policy." [1982 c 110 § 2.]

48.53.030 Cancellation of policy—Conditions required for. Notwithstanding the provisions of RCW 48.18.290, where two or more of the following conditions exist, an insurer may, under RCW 48.53.040, cancel a fire insurance policy for any structure:

(1) Which, without reasonable explanation, is unoccupied for more than sixty consecutive days, or in which at least sixty-five percent of the rental units are unoccupied for more than one hundred twenty consecutive days unless the structure is maintained for seasonal occupancy or is under construction or repair;

(2) On which, without reasonable explanation, progress toward completion of permanent repairs has not

occurred within sixty days after receipt of funds following satisfactory adjustment or adjudication of loss resulting from a fire;

(3) Which, because of its physical condition, is in danger of collapse;

(4) For which, because of its physical condition, a vacation or demolition order has been issued, or which has been declared unsafe in accordance with applicable law;

(5) From which fixed and salvageable items have been removed, indicating an intent to vacate the structure;

(6) For which, without reasonable explanation, heat, water, sewer, and electricity are not furnished for sixty consecutive days; and

(7) Which is not maintained in substantial compliance with fire, safety, and building codes. [1982 c 110 § 3.]

48.53.040 Cancellation of policy—Procedure. An insurer may cancel a fire insurance policy when the requirements of RCW 48.53.030 are met only in accordance with the following procedure:

(1) The insurer shall, not less than five days prior to cancellation, issue written notice of cancellation to the insured or the insured's representative in charge of the policy. The notice shall contain at least the following:

(a) The date that the policy will be canceled;

(b) A description of the specific facts justifying the cancellation;

(c) A copy of this chapter; and

(d) The name, title, address, and telephone number of the insurer's employee who may be contacted regarding cancellation of the policy.

(2) The notice required by this section shall be actually delivered or mailed to the insured by certified mail, return receipt requested, and in addition by first class mail. A copy of the notice shall, at the time of delivery or mailing to the insured, or the insured's representative in charge of the policy, be mailed to the insurance commissioner.

(3) The insurer shall also comply with the requirements of RCW 48.18.290(1)(b), (2) and (3), and shall provide not less than twenty days notice of cancellation to each mortgagee, pledgee, or other person shown by the policy to have an interest in any loss which may occur thereunder except as provided in subsection (1) of this section.

(4) The portion of any premium paid to the insurer on account of the policy, unearned because of the cancellation and in an amount as computed on a pro rata basis, must be actually paid or mailed to the insured or other person entitled thereto as shown by the policy or any endorsement thereon, as soon as possible, and no later than thirty days after the date that the notice of cancellation was issued. [1982 c 110 § 4.]

48.53.050 Issuance or cancellation of policy in violation of chapter. (1) Any fire insurance policy issued in violation of this chapter shall not be canceled by the insurer under the procedures authorized by this chapter.

(2) Cancellation of a fire insurance policy in violation of this chapter shall constitute a violation of this title. [1982 c 110 § 5.]

48.53.060 Adoption of rules. Rules designating geographic areas or classes of occupancy as having an abnormally high incidence of arson, and any other rules necessary to implement this chapter shall be adopted by the state fire marshal under chapter 34.04 RCW. [1982 c 110 § 6.]

Chapter 48.66
MEDICARE SUPPLEMENTAL HEALTH
INSURANCE ACT

Sections	
48.66.040	Repealed.
48.66.041	Minimum standards required by rule—Waiver.
48.66.100	Loss ratio requirements—Mass sales practices of individual policies.
48.66.120	Right of return by policyholder—Notice required.

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

48.66.041 Minimum standards required by rule—Waiver. (1) The insurance commissioner shall adopt rules to establish minimum standards for benefits in medicare supplement insurance policies.

(2) The commissioner shall adopt rules to establish specific standards for medicare supplement insurance policy provisions. These rules may include but are not limited to:

- (a) Terms of renewability;
- (b) Nonduplication of coverage;
- (c) Benefit limitations, exceptions, and reductions; and
- (d) Definitions of terms.

(3) The insurance commissioner may adopt rules that establish disclosure standards for replacement of policies or certificates by persons eligible for medicare by reason of age.

(4) The insurance commissioner may by rule prescribe that an informational brochure, designed to improve the buyer's understanding of medicare and ability to select the most appropriate coverage, be provided to persons eligible for medicare by reason of age. The commissioner may require that the brochure be provided to applicants concurrently with delivery of the outline of coverage, except with respect to direct response insurance, when the brochure may be provided upon request but no later than the delivery of the policy.

(5) In the case of a state or federally qualified health maintenance organization, the commissioner may waive compliance with one or all provisions of this section until January 1, 1983. [1982 c 200 § 1.]

48.66.100 Loss ratio requirements—Mass sales practices of individual policies. (1) Commencing with reports for the accounting periods beginning on or after January 1, 1982, medicare supplement insurance policies shall be expected to return to policyholders in the form of aggregate loss ratio under the policy:

- (a) At least seventy-five percent of the earned premiums in the case of group policies; and

(b) At least sixty percent of the earned premiums in the case of individual policies.

(2) For the purpose of this section, medicare supplement insurance policies issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(3) By January 1, 1982, the insurance commissioner shall adopt rules sufficient to accomplish the provisions of this section and may, by such rules, impose more stringent or appropriate loss ratio requirements when it is necessary for the protection of the public interest. [1982 c 200 § 2; 1981 c 153 § 10.]

48.66.120 Right of return by policyholder—Notice required. Every individual medicare supplement insurance policy issued after January 1, 1982, and every certificate issued pursuant to a group medicare supplement policy after January 1, 1982, shall have prominently displayed on the first page of the policy form or certificate a notice stating in substance that the person to whom the policy or certificate is issued shall be permitted to return the policy or certificate within thirty days of its delivery to the purchaser and to have the premium refunded if, after examination of the policy or certificate, the purchaser is not satisfied with it for any reason. If a policyholder or purchaser, pursuant to such notice, returns the policy or certificate to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy or certificate had been issued. [1982 c 200 § 3; 1981 c 153 § 12.]

Chapter 48.70

SPECIFIED DISEASE INSURANCE ACT

Sections

48.70.010	Legislative intent.
48.70.020	Definitions—Rules.
48.70.030	Expected returns to policyholders—Rules.
48.70.040	Rules required.
48.70.900	Application of chapter.
48.70.910	Severability—1982 c 181.

48.70.010 Legislative intent. This chapter shall be known as the specified disease insurance act and is intended to govern the content and sale of specified disease insurance as defined in this chapter. This chapter applies in addition to, rather than in place of, other requirements of Title 48 RCW. It is the intent of the legislature to guarantee that specified disease policies issued, delivered, or used in this state provide a reasonable level of benefits to the policyholders. This chapter shall be applied broadly to ensure achievement of its aim. [1982 c 181 § 20.]

48.70.020 Definitions—Rules. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

[1982 RCW Supp—page 426]

(1) "Specified disease policy" refers to any insurance policy or contract which provides benefits to a policyholder only in the event that the policyholder contracts the disease or diseases specifically named in the policy.

(2) "Loss ratio" means the incurred claims as a percentage of the earned premium, computed under rules adopted by the commissioner. Earned premiums and incurred claims shall be computed under rules adopted by the commissioner. [1982 c 181 § 21.]

48.70.030 Expected returns to policyholders—Rules. (1) Commencing with reports for the accounting periods beginning on or after July 1, 1983, specified disease policies shall be expected to return to policyholders in the form of aggregate loss ratios under the policy:

(a) At least seventy-five percent of the earned premiums in the case of group policies; and

(b) At least sixty percent of the earned premiums in the case of individual policies.

(2) For the purpose of this section, specified disease insurance policies issued as a result of solicitation of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(3) By July 1, 1983, the commissioner shall adopt rules sufficient to accomplish the provisions of this section. [1982 c 181 § 22.]

48.70.040 Rules required. By July 1, 1983, the commissioner shall adopt all rules necessary to ensure that specified disease policies provide a reasonable level of benefits to policyholders, and that purchasers and potential purchasers of such policies are fully informed of the level of benefits provided. [1982 c 181 § 23.]

48.70.900 Application of chapter. This chapter shall apply to all policies issued on or after July 1, 1983. This chapter shall not apply to services provided by health care service contractors as defined in RCW 48.44.010. [1982 c 181 § 24.]

48.70.910 Severability—1982 c 181. See note following RCW 48.03.010.

Chapter 48.74

STANDARD VALUATION LAW

Sections

48.74.010	Short title—"NAIC" defined.
48.74.020	Valuation of reserve liabilities.
48.74.030	Minimum standard for valuation.
48.74.040	Amount of reserves required.
48.74.050	Minimum aggregate reserves.
48.74.060	Other methods of reserve calculation.
48.74.070	Minimum reserve if gross premium less than valuation net premium.
48.74.080	Procedure when specified methods of reserve determination unfeasible.

48.74.010 Short title—"NAIC" defined. This chapter may be known and cited as the standard valuation law. As used in this chapter, "NAIC" means the

National Association of Insurance Commissioners. [1982 1st ex.s. c 9 § 1.]

48.74.020 Valuation of reserve liabilities. The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods, including net level premium method or other, used in the calculation of such reserves. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this chapter and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. [1982 1st ex.s. c 9 § 2.]

48.74.030 Minimum standard for valuation. (1) Except as otherwise provided in subsections (2) and (3) of this section, the minimum standard for the valuation of all such policies and contracts issued prior to July 10, 1982, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subsections (2) and (3) of this section, the minimum standard for the valuation of all such policies and contracts issued on or after July 10, 1982, shall be the commissioner's reserve valuation methods defined in RCW 48.74.040 and 48.74.070, three and one-half percent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 16, 1973, four percent interest for such policies issued prior to September 1, 1979, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other such policies issued on and after September 1, 1979, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioner's 1941 standard ordinary mortality table for such policies issued prior to the operative date of RCW 48.23.350(5a) and the commissioner's 1958 standard ordinary mortality table for such policies issued on or after such operative date and prior to the operative date of RCW 48.76.050(4), except that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this chapter may be calculated according to an age not more than six years

younger than the actual age of the insured; and for such policies issued on or after the operative date of RCW 48.76.050(4): (i) The commissioner's 1980 standard ordinary mortality table; or (ii) at the election of the company for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with ten-year select mortality factors; or (iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies—the 1941 standard industrial mortality table for such policies issued prior to the operative date of RCW 48.23.350(5b), and for such policies issued on or after such operative date the commissioner's 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule of the commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of table[s] specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by

the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the intercompany double indemnity mortality table; and for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

(2) Except as provided in subsection (3) of this section, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after July 10, 1982, and for all annuities and pure endowments purchased on or after such effective date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in RCW 48.74.040 and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued before September 1, 1979, excluding any disability and accidental death benefit in such contracts—the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after September 1, 1979, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

(c) For individual annuity and pure endowment contracts issued on or after September 1, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts—the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased prior to September 1, 1979, under group annuity and pure endowment contracts, excluding any disability and

accidental death benefits purchased under such contracts—the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest.

(e) For all annuities and pure endowments purchased on or after September 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts—the 1971 group annuity mortality table or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

After July 16, 1973, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1979, which shall be the operative date of this section for such company: *Provided*, That a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this section for such company shall be January 1, 1979.

(3) (a) The interest rates used in determining the minimum standard for the valuation of:

(i) All life insurance policies issued in a particular calendar year, on or after the operative date of RCW 48.76.050(4);

(ii) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

(iii) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

(iv) The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this section.

(b) The calendar year statutory valuation interest rates, *I*, shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(i) For life insurance:

$$I = .03 + W (R_1 - .03) + W/2 (R_2 - .09);$$

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W (R - .03)$$

where R_1 is the lesser of R and $.09$,

R_2 is the greater of R and $.09$,

R is the reference interest rate defined in this section, and

W is the weighting factor defined in this section;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in

(ii) of this subparagraph, the formula for life insurance stated in (i) of this subparagraph shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in (ii) of this subparagraph shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;

(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (ii) of this subparagraph shall apply;

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (ii) of this subparagraph shall apply.

(c) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1983 using the reference interest rate defined for 1982 and shall be determined for each subsequent calendar year regardless of when RCW 48.76.050(4) becomes operative.

(d) The weighting factors referred to in the formulas stated in subparagraph (b) of this subsection are given in the following tables:

(i) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80;

(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (ii) of this subparagraph, shall be as specified in (d)(iii) (A), (B), and (C) of this subsection, according to the rules and definitions in (d)(iii) (D), (E), and (F) of this subsection:

(A) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(B) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (d)(iii) (A) of this subsection increased by:

A	Plan Type	
	B	C
.15	.25	.05

(C) For annuities and guaranteed interest contracts valued on an issue year basis other than those with no cash settlement options which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in (d)(iii) (A) of this subsection or derived in (d)(iii) (B) of this subsection increased by:

A	Plan Type	
	B	C
.05	.05	.05

(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(E) Plan type as used in the tables in (d)(iii) (A), (B), and (C) of this subsection is defined as follows:

Plan Type A: At any time a policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) as an immediate life annuity; or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, a policyholder may withdraw funds only: (1) With adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of the interest rate guarantee, funds

may be withdrawn without such adjustment in a single sum or installments over less than five years.

Plan Type C: A policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either: (1) Without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(F) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract. The change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(e) The reference interest rate referred to in subparagraphs (b) and (c) of this subsection is defined as follows:

(i) For all life insurance, the lesser of the average over a period of thirty–six months and the average over a period of twelve months, ending on June 30th of the calendar year next preceding the year of issue, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's Investors Service, Inc.

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30th of the calendar year of issue or year of purchase of Moody's corporate bond yield average—monthly average corporates, as published by Moody's Investors Service, Inc.

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (ii) of this subparagraph, with guarantee duration in excess of ten years, the lesser of the average over a period of thirty–six months and the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's Investors Service, Inc.

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated

in (ii) of this subparagraph, with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's Investors Service, Inc.

(v) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30th of the calendar year of issue or purchase, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's Investors Service, Inc.

(vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (ii) of this subparagraph, the average over a period of twelve months, ending on June 30th of the calendar year of the change in the fund, of Moody's corporate bond yield average—monthly average corporates, as published by Moody's Investors Service, Inc.

(g)[f] If Moody's corporate bond yield average—monthly average corporates is no longer published by Moody's Investors Service, Inc., or if the National Association of Insurance Commissioners determines that Moody's corporate bond yield average—monthly average corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by rule adopted by the commissioner, may be substituted. [1982 1st ex.s. c 9 § 3.]

48.74.040 Amount of reserves required. (1) Except as otherwise provided in RCW 48.74.040(2) and 48.74.070, reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due: *Provided however*, That such net level annual premium shall not exceed the net level annual premium on the nineteen

year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one year term premium for such benefits provided for in the first policy year: *Provided*, That for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in RCW 48.74.070, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph of this subsection and the reserve as of such policy anniversary calculated as described in that paragraph, but with: (i) The value defined in subparagraph (a) of that paragraph being reduced by fifteen percent of the amount of such excess first year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; (iii) the policy being assumed to mature on such date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in RCW 48.74.030(1) and (3) shall be used.

Reserves according to the commissioner's reserve valuation method for life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended, disability and accidental death benefits in all policies and contracts, and all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of the preceding paragraphs of this subsection.

(2) This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement

accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values. [1982 1st ex.s. c 9 § 4.]

48.74.050 Minimum aggregate reserves. In no event may a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after July 10, 1982, be less than the aggregate reserves calculated in accordance with the methods set forth in RCW 48.74.040, 48.74.070, and 48.74.080 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. [1982 1st ex.s. c 9 § 5.]

48.74.060 Other methods of reserve calculation. Reserves for all policies and contracts issued prior to the operative date of this chapter, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

Reserves for any category of policies, contracts, or benefits as established by the commissioner, issued on or after July 10, 1982, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided therein.

Any such company which at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided. [1982 1st ex.s. c 9 § 6.]

48.74.070 Minimum reserve if gross premium less than valuation net premium. If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in RCW 48.74.030(1) and (3): *Provided*, That for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this section shall be applied as if the method actually used in calculating the reserve for such policy were the method described in RCW 48.74.040, ignoring the second paragraph of that section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with RCW 48.74.040, including the second paragraph of that section, and the minimum reserve calculated in accordance with this section. [1982 1st ex.s. c 9 § 7.]

48.74.080 Procedure when specified methods of reserve determination unfeasible. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in RCW 48.74.040 and 48.74.070, the reserves which are held under any such plan must, under regulations promulgated by the commissioner:

(1) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(2) Be computed by a method which is consistent with the principles of this standard valuation law. [1982 1st ex.s. c 9 § 8.]

Chapter 48.76 STANDARD NONFORFEITURE LAW FOR LIFE INSURANCE

Sections	
48.76.010	Short title—"NAIC" defined.
48.76.020	Nonforfeiture and cash surrender provisions required.
48.76.030	Amount of cash surrender value.
48.76.040	Nonforfeiture benefit in case of premium default.
48.76.050	Calculation of adjusted premiums—Operative date of section.
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48.76.070	Calculation of cash surrender value and paid-up nonforfeiture benefit.
48.76.080	Cash surrender value required for policies issued on or after January 1, 1986.
48.76.090	Chapter inapplicable to certain policies.
48.76.100	Operative date of chapter.

48.76.010 Short title—"NAIC" defined. This chapter may be known and cited as the standard nonforfeiture law for life insurance. As used in this chapter, "NAIC" means the National Association of Insurance Commissioners. [1982 1st ex.s. c 9 § 10.]

48.76.020 Nonforfeiture and cash surrender provisions required. In the case of policies issued on and after the operative date of this chapter as defined in RCW 48.76.100, no policy of life insurance, except as stated in RCW 48.76.090, may be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified in this chapter and are essentially in compliance with RCW 48.76.080:

(1) That, in the event of default in any premium payment, the company will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be specified in this chapter. In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(2) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be specified in this chapter.

(3) That a specified paid-up nonforfeiture benefit becomes effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default.

(4) That if the policy has become paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be specified in this chapter.

(5) That policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy. [1982 1st ex.s. c 9 § 11.]

48.76.030 Amount of cash surrender value. (1) Subject to subsections (2) and (3) of this section, any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by RCW 48.76.020,

shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of the then present value of the adjusted premiums as defined in RCW 48.76.050, corresponding to premiums which would have fallen due on and after such anniversary, and the amount of any indebtedness to the company on the policy.

(2) For any policy issued on or after the operative date of RCW 48.76.050(4), which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subsection (1) of this section shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

(3) For any family policy issued on or after the operative date of RCW 48.76.050(4), which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value shall be an amount not less than the sum of the cash surrender value as defined in this section for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in this section for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

(4) Any cash surrender value available within thirty days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by RCW 48.76.020, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy. [1982 1st ex.s. c 9 § 12.]

48.76.040 Nonforfeiture benefit in case of premium default. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary is at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this chapter in the absence of the condition that premiums shall have been paid for at least a specified period. [1982 1st ex.s. c 9 § 13.]

48.76.050 Calculation of adjusted premiums—
Operative date of section. (1)(a) This subsection does not apply to policies issued on or after the operative date of

subsection (4) of this section. Except as provided in subparagraph (c) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of: (i) The then present value of the future guaranteed benefits provided for by the policy; (ii) two percent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty percent of the adjusted premium for the first policy year; (iv) twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less: *Provided*, That in applying the percentages specified in subparagraph (a)(iii) and (iv) of this subsection, no adjusted premium shall be deemed to exceed four percent of the amount of insurance or level amount equivalent thereto. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(b) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent level amount thereof for the purpose of this section shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the inception of the insurance as the benefits under the policy: *Provided however*, That in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

(c) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to: (i) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (ii) the adjusted premiums for such term insurance, subparagraph (c) (i) and (ii) of this subsection being calculated separately and as specified in subparagraphs (a) and (b) of this subsection except that, for the purposes of subparagraph (a)(ii), (a)(iii), and (a)(iv) of this subsection, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in subparagraph (c)(ii) of this subsection shall be equal to the excess of the corresponding amount determined

for the entire policy over the amount used in the calculation of the adjusted premiums in subparagraph (c)(i) of this subsection.

(d) Except as otherwise provided in subsections (2) and (3) of this section, all adjusted premiums and present values referred to in this chapter shall for all policies of ordinary insurance be calculated on the basis of the commissioner's 1941 standard ordinary mortality table: *Provided*, That for any category of ordinary insurance issued on female risks on or after July 1, 1957, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits: *Provided*, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty percent of the rates of mortality according to such applicable table: *Provided, further*, That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(2) This subsection does not apply to ordinary policies issued on or after the operative date of subsection (4) of this section. In the case of ordinary policies issued on or after the operative date of this section, all adjusted premiums and present values referred to in this chapter shall be calculated on the basis of the commissioner's 1958 standard ordinary mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half percent per annum except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after July 16, 1973, and before September 1, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after September 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured: *Provided*, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioner's 1958 extended term insurance table: *Provided further*, That for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other

table of mortality as may be specified by the company and approved by the commissioner.

After June 11, 1959, any company may file with the commissioner a written notice of its election to comply with the provisions of this section. After the filing of such notice, then upon such specified date (which shall be the operative date of this section for such company), this subsection shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1966.

(3) This subsection does not apply to industrial policies issued on or after the operative date of subsection (4) of this section. In the case of industrial policies issued on or after the operative date of this chapter, all adjusted premiums and present values referred to in this chapter shall be calculated on the basis of the commissioner's 1961 standard industrial mortality table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after July 16, 1973, and prior to September 1, 1979, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after September 1, 1979, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per annum may be used: *Provided*, That in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioner's 1961 industrial extended term insurance table: *Provided further*, That for insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After July 10, 1982, any company may file with the commissioner a written notice of its election to comply with the provisions of this section. After the filing of such notice, then upon such specified date (which shall be the operative date of this section for such company), this subsection shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1968.

(4) (a) This section applies to all policies issued on or after the operative date of this subsection as defined herein. Except as provided in subparagraph (g) of this subsection, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement

of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of: (i) The then present value of the future guaranteed benefits provided for by the policy; (ii) one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and (iii) one hundred twenty-five percent of the nonforfeiture net level premium as defined in subparagraph (b) of this subsection: *Provided*, That in applying the percentage specified in (iii) of this subparagraph no nonforfeiture net level premium shall be deemed to exceed four percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(b) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(c) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in subparagraph (g) of this subsection, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (i) the sum of (A) the then present value of the then future guaranteed benefits provided for by the policy and (B) the additional expense allowance, if any, over (ii) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums,

shall be the sum of: (i) One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (ii) one hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (i) by (ii) where:

(i) Equals the sum of:

(A) The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

(B) The present value of the increase in future guaranteed benefits provided for by the policy; and

(ii) Equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(g) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this chapter shall for all policies of ordinary insurance be calculated on the basis of the commissioner's 1980 standard ordinary mortality table or at the election of the company for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with ten-year select mortality factors, shall for all policies of industrial insurance be calculated on the basis of the commissioner's 1961 standard industrial mortality table, and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section, for policies issued in that calendar year, subject to the following provisions:

(i) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(ii) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender

value available, whether or not required by RCW 48.76.020, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(iii) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(iv) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioner's 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioner's 1961 industrial extended term insurance table for policies of industrial insurance.

(v) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(vi) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioner's 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioner's 1980 extended term insurance table.

(vii) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioner's 1961 standard industrial mortality table or the commissioner's 1961 industrial extended term insurance table.

(i) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law (chapter 48.74 RCW), rounded to the nearer one quarter of one percent.

(j) Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(k) After July 10, 1982, any company may file with the commissioner a written notice of its election to comply with the provision[s] of this section after a specified date before January 1, 1989, which shall be the operative date of this section for such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1989. [1982 1st ex.s. c 9 § 14.]

48.76.060 Requirements when specified methods of minimum values determination unfeasible. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in RCW 48.76.020 through 48.76.050, then:

(1) The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by RCW 48.76.020 through 48.76.050;

(2) The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds;

(3) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this chapter, as determined by regulations promulgated by the commissioner. [1982 1st ex.s. c 9 § 15.]

48.76.070 Calculation of cash surrender value and paid-up nonforfeiture benefit. Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in RCW 48.76.030 through 48.76.050 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide such additions. Notwithstanding the provisions of RCW 48.76.030, additional benefits payable: (1) In the event of death or dismemberment by accident or accidental means; (2) in the event of total and permanent disability; (3) as reversionary annuity or deferred reversionary annuity benefits; (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this chapter would not apply; (5) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child; and (6) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this chapter, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits. [1982 1st ex.s. c 9 § 16.]

48.76.080 Cash surrender value required for policies issued on or after January 1, 1986. (1) This section, in

addition to all other applicable sections of this chapter, shall apply to all policies issued on or after January 1, 1986. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of: (a) The greater of zero and the basic cash value specified in subsection (2) of this section; and (b) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

(2) The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as defined in subsection (3) of this section, corresponding to premiums which would have fallen due on and after such anniversary: *Provided*, That the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in RCW 48.76.030 or 48.76.050(4), whichever is applicable, shall be the same as are the effects specified in RCW 48.76.030 or 48.76.050(4), whichever is applicable, on the cash surrender values defined in that section.

(3) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in RCW 48.76.050 (1) or (4). Except as is required by the next succeeding sentence of this paragraph, such percentage:

(a) Must be the same percentage for each policy year between the second policy anniversary and the later of: (i) The fifth policy anniversary; and (ii) The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and

(b) Must be such that no percentage after the later of the two policy anniversaries specified in subparagraph (a) of this subsection may apply to fewer than five consecutive policy years: *Provided*, That no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in RCW 48.76.050 (1) or (4), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(4) All adjusted premiums and present values referred to in this section shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of this chapter. The cash surrender values referred to in this section shall include any endowment benefits provided for by the policy.

(5) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in RCW 48.76.020 through 48.76.040, 48.76.050(4), and 48.76.070. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in RCW 48.76.070 shall conform with the principles of this section. [1982 1st ex.s. c 9 § 17.]

48.76.090 Chapter inapplicable to certain policies.

This chapter does not apply to any of the following:

- (1) Reinsurance;
- (2) Group insurance;
- (3) A pure endowment;
- (4) An annuity or reversionary annuity contract;
- (5) A term policy of a uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;
- (6) A term policy of a decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in RCW 48.76.050, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;
- (7) A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in RCW 48.76.030 through 48.76.050, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year; nor
- (8) A policy which is delivered outside this state through an agent or other representative of the company issuing the policy.

For purposes of determining the applicability of this chapter, the age at expiration for a joint term life insurance policy is the age at expiration of the oldest life. [1982 1st ex.s. c 9 § 18.]

48.76.100 Operative date of chapter. After July 10, 1982, any company may file with the commissioner a written notice of its election to comply with the provisions of this chapter. After the filing of such notice, then upon such specified date (which shall be the operative date for such company), this chapter becomes operative with respect to the policies thereafter issued by such

company. If a company makes no such election, the operative date of this chapter for such company shall be January 1, 1948. [1982 1st ex.s. c 9 § 19.]

Title 49
LABOR REGULATIONS

Chapters

- 49.04 Apprenticeship.**
49.17 Washington industrial safety and health act.

Chapter 49.04
APPRENTICESHIP

Sections

- 49.04.010 Apprenticeship council created—Composition—
Terms—Compensation—Duties.
49.04.075 Registration of apprenticeship and training agreements
and standards—Fees authorized.

49.04.010 Apprenticeship council created—Composition—Terms—Compensation—Duties. The director of labor and industries shall appoint an apprenticeship council, composed of three representatives each from employer and employee organizations, respectively. The terms of office of the members of the apprenticeship council first appointed by the director of labor and industries shall be as follows: One representative each of employers and employees shall be appointed for one year, two years, and three years, respectively. Thereafter, each member shall be appointed for a term of three years. The governor shall appoint a public member to the apprenticeship council for a three-year term. The appointment of the public member is subject to confirmation by the senate. Each member shall hold office until his successor is appointed and has qualified and any vacancy shall be filled by appointment for the unexpired portion of the term. The state official who has been designated by the commission for vocational education as being in charge of trade and industrial education and the state official who has immediate charge of the state public employment service shall ex officio be members of said council, without vote. Each member of the council, not otherwise compensated by public moneys, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended and shall be paid not more than twenty-five dollars for each day spent in attendance at meetings of the council. The apprenticeship council with the consent of employee and employer groups shall: (1) Establish standards for apprenticeship agreements in conformity with the provisions of this chapter; (2) issue such rules and regulations as may be necessary to carry out the intent and purposes of this chapter, including a procedure to resolve an impasse should a tie vote of the council occur; and (3) perform such other duties as are hereinafter imposed. Not less than once a year the apprenticeship council shall make a

report to the director of labor and industries of its activities and findings which shall be available to the public. [1982 1st ex.s. c 39 § 2; 1979 ex.s. c 37 § 1; 1977 c 75 § 72; 1975-'76 2nd ex.s. c 34 § 143; 1967 c 6 § 1; 1961 c 114 § 1; 1941 c 231 § 1; Rem. Supp. 1941 § 7614-3. Formerly RCW 49.04.010 and 49.04.020.]

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

Vocational education: Chapter 28C.04 RCW.

49.04.075 Registration of apprenticeship and training agreements and standards—Fees authorized. (1) The department of labor and industries may charge fees for the registration of individual apprenticeship or training agreements. The department may also charge fees for the registration of apprenticeship or training standards by employers, apprenticeship committees, or other organizations sponsoring apprenticeship or training programs. The fees for registration of individual apprenticeship agreements shall be paid either by the apprentice or by the program sponsor.

(2) The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.04 RCW. The fees shall apply to all registrations that are in effect or made after the effective date of the rules. All fees shall be deposited in the general fund.

(3) The department shall set the fees permitted by this chapter at a level that generates revenue that is not less than fifty percent of the appropriation for the apprenticeship division for each biennium.

(4) The department may refuse to register or amend apprenticeship or training standards or agreements for which the proper fees have not been paid. The department may suspend or terminate the existing registration of any apprenticeship agreements or standards for which the proper fees have not been paid. The department may, if necessary, request the attorney general to take legal action to collect any delinquent fees. [1982 1st ex.s. c 39 § 1.]

Chapter 49.17

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT

Sections

49.17.150 Appeal to superior court—Review or enforcement of orders.

49.17.150 Appeal to superior court—Review or enforcement of orders. (1) Any person aggrieved by an order of the board of industrial insurance appeals issued under RCW 49.17.140(3) may obtain a review of such order in the superior court for the county in which the violation is alleged to have occurred, by filing in such court within thirty days following the communication of the board's order or denial of any petition or petitions for review, a written notice of appeal praying that the

order be modified or set aside. Such appeal shall be perfected by filing with the clerk of the court and by serving a copy thereof by mail, or personally, on the director and on the board. The board shall thereupon transmit a copy of the notice of appeal to all parties who participated in proceedings before the board, and shall file in the court the complete record of the proceedings. Upon such filing the court 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 and the record of proceedings a decree affirming, modifying, or setting aside in all or in part, the decision of the board of industrial insurance appeals and enforcing the same to the extent that such order is affirmed or modified. The commencement of appellate proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the board of industrial insurance appeals. No objection that has not been urged before the board shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the board or hearing examiner where the board has denied a petition or petitions for review with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the board, the court may order such additional evidence to be taken before the board and to be made a part of the record. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact are supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and the judgment and decree shall be final, except as the same shall be subject to review by the supreme court. Appeals filed under this subsection shall be heard expeditiously.

(2) The director may also obtain review or enforcement of any final order of the board by filing a petition for such relief in the superior court for the county in which the alleged violation occurred. The provisions of subsection (1) of this section shall govern such proceeding to the extent applicable. If a notice of appeal, as provided in subsection (1) of this section, is not filed within thirty days after service of the board's order, the board's findings of fact, decision, and order or the examiner's findings of fact, decision, and order when a petition or petitions for review have been denied shall be conclusive in connection with any petition for enforcement which is filed by the director after the expiration of such thirty day period. In any such case, as well as in the case of an unappealed citation or a notification of

the assessment of a penalty by the director, which has become a final order under subsection (1) or (2) of RCW 49.17.140 upon application of the director, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the citation and notice of assessment of penalty and shall transmit a copy of such decree to the director and the employer named in the director's petition. In any contempt proceeding brought to enforce a decree of the superior court entered pursuant to this subsection or subsection (1) of this section the superior court may assess the penalties provided in RCW 49.17.180, in addition to invoking any other available remedies. [1982 c 109 § 1; 1973 c 80 § 15.]

Title 50

UNEMPLOYMENT COMPENSATION

Chapters

- 50.04** Definitions.
- 50.12** Administration.
- 50.20** Benefits and claims.
- 50.22** Extended benefits.
- 50.24** Contributions by employers.
- 50.32** Review, hearings and appeals.
- 50.38** Occupational information service—Forecast.
- 50.40** Miscellaneous provisions.

Chapter 50.04 DEFINITIONS

Sections

- 50.04.100 Employment.
- 50.04.145 Employment—Services performed for contractors, when excluded.
- 50.04.225 Employment—Barber, hairdressing, and cosmetology services.

50.04.100 Employment. "Employment", subject only to the other provisions of this title, means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied.

Except as provided by RCW 50.04.145, personal services performed for an employing unit by one or more contractors or subcontractors acting individually or as a partnership, which do not meet the provisions of RCW 50.04.140, shall be considered employment of the employing unit: *Provided, however,* That such contractor or subcontractor shall be an employer under the provisions of this title in respect to personal services performed by individuals for such contractor or subcontractor. [1982 1st ex.s. c 18 § 14; 1945 c 35 § 11; Rem. Supp. 1945 § 9998-150. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

[1982 RCW Supp—page 440]

50.04.145 Employment—Services performed for contractors, when excluded. The term "employment" shall not include services rendered by any person, firm, or corporation currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW when:

(1) Contracting to perform work for any contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) There is no other person, firm or corporation doing the same work at the same time on the same project except two or more persons, firms or corporations may contract and do the same work at the same time on the same project if each person, firm or corporation has employees;

(3) The person, firm, or corporation has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(4) The person, firm, or corporation maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(5) The work which the person, firm, or corporation has contracted to perform is:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW. [1982 1st ex.s. c 18 § 13.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

50.04.225 Employment—Barber, hairdressing, and cosmetology services. The term "employment" does not include services performed in a barber shop licensed under chapter 18.15 RCW or a hairdressing or cosmetology shop licensed under chapter 18.18 RCW if:

(1) The use of the shop facilities by the individual performing the services is contingent upon compensation to the shop owner; and

(2) The individual performing the services receives no compensation or other consideration from the owner for the services performed. [1982 1st ex.s. c 18 § 20.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Chapter 50.12 ADMINISTRATION

Sections

- 50.12.200 State advisory council—Committees and councils.

Business registration and licensing system board of review, commissioner as member: RCW 19.02.040.

50.12.200 State advisory council—Committees and councils. The commissioner shall appoint a state advisory council composed of not more than nine men and

women, of which three shall be representatives of employers, three shall be representatives of employees, and three shall be representatives of the general public. Such council shall aid the commissioner in formulating policies and discussing problems related to the administration of this title and of assuring impartiality and freedom from political influence in the solution of such problems. The council shall serve without compensation. The commissioner may also appoint committees, and industrial or other special councils, to perform appropriate services. Advisory council members shall be reimbursed for travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1982 1st ex.s. c 18 § 1; 1975-'76 2nd ex.s. c 34 § 149; 1953 ex.s. c 8 § 4; 1947 c 215 § 12; 1945 c 35 § 59; Rem. Supp. 1947 § 9998-197. Prior: 1941 c 253 § 17.]

Severability—1982 1st ex.s. c 18: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 18 § 22.]

Conflict with federal requirements—1982 1st ex.s. c 18: "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state." [1982 1st ex.s. c 18 § 21.]

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

Chapter 50.20 BENEFITS AND CLAIMS

Sections

50.20.050	Disqualification for leaving work voluntarily without good cause.
50.20.060	Disqualification from benefits due to misconduct, felony, or gross misdemeanor.
50.20.118	Unemployment while in approved training.

50.20.050 Disqualification for leaving work voluntarily without good cause. (1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter until he or she has obtained bona fide work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

- (a) The duration of the work;
- (b) The extent of direction and control by the employer over the work; and
- (c) The level of skill required for the work in light of the individual's training and experience.

(2) An individual shall not be considered to have left work voluntarily without good cause when:

(a) He or she has left work to accept a bona fide offer of bona fide work as described in subsection (1) of this section; or

(b) The separation was because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment: *Provided*, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system.

(3) In determining under this section whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, the individual's ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment, unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unreasonable hardship on the individual were he or she required to continue in the employment.

(4) Subsections (1) and (3) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits until he or she has requalified, either by obtaining bona fide work and earning wages of not less than the suspended weekly benefit amount in each of five calendar weeks or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department. [1982 1st ex.s. c 18 § 6; 1981 c 35 § 4; 1980 c 74 § 5; 1977 ex.s. c 33 § 4; 1970 ex.s. c 2 § 21; 1953 ex.s. c 8 § 8; 1951 c 215 § 12; 1949 c 214 § 12; 1947 c 215 § 15; 1945 c 35 § 73; Rem.

Supp. 1949 § 9998–211. Prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Severability—1981 c 35: See note following RCW 50.22.030.

Severability—1980 c 74: See note following RCW 50.04.323.

Effective dates—Construction—1977 ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

50.20.060 Disqualification from benefits due to misconduct, felony, or gross misdemeanor. (1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter until he or she has obtained work and earned wages of not less than the suspended weekly benefit amount in each of five calendar weeks. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct.

(2) An individual who has been discharged because of a felony or a gross misdemeanor of which he or she has been convicted, or has admitted committing to a competent authority, and which is connected with his or her work shall be disqualified from receiving any benefits for which base year credits are earned in any employment prior to the discharge. Such disqualification begins with the first day of the calendar week in which he or she has been discharged, and all benefits paid during the period the individual was disqualified shall be recoverable, notwithstanding RCW 50.20.190, 50.24.020, or any other provision of this title. [1982 1st ex.s. c 18 § 16; 1977 ex.s. c 33 § 5; 1970 ex.s. c 2 § 22; 1953 ex.s. c 8 § 9; 1951 c 215 § 13; 1949 c 214 § 13; 1947 c 215 § 16; 1945 c 35 § 74; Rem. Supp. 1949 § 9998–212. Prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Effective dates—Construction—1977 ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

50.20.118 Unemployment while in approved training.

(1) Notwithstanding any other provision of this chapter, an otherwise eligible individual shall not be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the Trade Act of 1974, P.L. 93–618, nor may that individual be denied benefits for any such week by reason of leaving work which is not suitable employment to enter such training, or for failure to meet any requirement of federal or state law for any such week which relates to the individual's availability for work, active search for work, or refusal to accept work.

(2) For the purposes of this section, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as described for the purposes of the Trade Act of 1974, P.L. 93–618),

if the wages for such work are not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974, P.L. 93–618. [1982 1st ex.s. c 18 § 7.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Chapter 50.22

EXTENDED BENEFITS

Sections	
50.22.010	Definitions.
50.22.030	Extended benefit eligibility conditions—Interstate claims.
50.22.050	Total extended benefit amount—Reduction.
50.22.060	Public announcements when extended benefit periods become effective or are terminated—Computations of rate of insured unemployment.
50.22.100	Additional benefits—Eligibility—Amount—Terms and conditions.
50.22.110	Additional benefit period established—To whom payable—Proposals by department.
50.22.120	Additional benefits—Termination date for payment.

50.22.010 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is an "on" indicator; and

(b) Ends with the third week after the first week for which there is an "off" indicator: *Provided*, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of an "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

(2) There is an "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded five percent.

(3) There is an "off" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) was either:

(a) Less than five percent; or

(b) Five percent or more and the rate of insured unemployment was less than one hundred twenty percent of the average of the rates for the corresponding thirteen week period ending in each of the two preceding calendar years.

(4) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees

and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(5) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

(6) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(7) "Eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an extended benefit period that is in effect in this state and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(8) An "additional benefit period" means a period within an extended benefit period which:

(a) Begins with the third week after a week for which:

(i) The governor determines that adverse economic conditions and high unemployment among the state's workers necessitate payment of additional benefits; and

(ii) The commissioner determines that, for the fifty-two consecutive weeks ending with such week, the rate of insured unemployment as calculated under (d) of this subsection equals or exceeds six and one-half percent: *Provided*, That six percent shall apply if the fifty-two week rate of insured unemployment has been less than four and one-half percent at any time within the preceding one hundred four weeks.

(b) Ends with the third week after a week for which the commissioner determines that, for the fifty-two consecutive weeks ending with such week, the rate of insured unemployment as calculated under (d) of this subsection is less than six and one-half percent: *Provided*, That six percent shall apply if the additional benefit period began because of the proviso in (a)(ii) of this subsection, the fifty-two week rate of insured unemployment has not exceeded six and one-half percent during the additional benefit period, and the additional benefit period has been in effect for fewer than thirty-six weeks.

(c) No additional benefit period may last for a period of less than thirteen weeks, and no additional benefit period may begin before the fourteenth week after the close of a prior additional benefit period.

(d) "Rate of insured unemployment," for the purposes of (a) and (b) of this subsection, means the percentage derived by dividing the average weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent fifty-two consecutive-week period as determined by the commissioner on the basis of his reports to the United States Secretary of Labor by the average monthly employment covered under this title for the first four of the most recent six completed calendar quarters ending before the end of such fifty-two week period. The division shall be carried to the fourth decimal place with any remaining fraction disregarded.

(e) If a federally funded program of benefits is established which provides for benefits beyond thirty-nine weeks, any additional benefit period in effect shall terminate on the last day of the week preceding the effective week of the federal program. No additional benefit period may begin while such a federal program is in effect.

(9) "Additional benefit eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an additional benefit period that is in effect and, if his or her benefit year ends within such additional benefit period, any weeks thereafter which begin in such period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him or her under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him or her under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week, after the cancellation of some or all of his or her wage credits or the total or partial reduction of his or her rights to regular benefits: *Provided*, That, for the purposes of (a) and (b), an individual shall be deemed to have received in his or her current benefit year all of the regular benefits that were payable to him or her, or available to him or her, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his or her current benefit year, he or she may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he or she is not entitled to regular benefits with respect to such week of unemployment (although he or she may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his or her current benefit year), and he or she is otherwise an exhaustee within the meaning of this section with respect to his or her right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him or her during such year because his or her wage credits were canceled or his or her right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His or her benefit year having ended prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such

week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the Federal Unemployment Tax Act, or the similar provision in any other state law; and

(d) (i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of Canada, unless the appropriate agency finally determines that he or she is not entitled to unemployment benefits under such law for such week.

(11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954. [1982 1st ex.s. c 18 § 2; 1981 c 35 § 7; 1977 ex.s. c 292 § 11; 1973 c 73 § 7; 1971 c 1 § 2.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Severability—1981 c 35: See note following RCW 50.22.030.

Application—1977 ex.s. c 292: "The provisions of section 11 of this 1977 amendatory act shall apply to the week ending May 21, 1977, and all weeks thereafter." [1977 ex.s. c 292 § 25.] This applies to the amendment to RCW 50.22.010 by 1977 ex.s. c 292 § 11.

Effective dates—1977 ex.s. c 292: See notes following RCW 50.04.116.

Effective dates—1973 c 73: See notes following RCW 50.04.030.

Emergency—Effective date—1971 c 1: "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 on the Sunday following the day on which the governor signs this enactment." [1971 c 1 § 11.] The effective date of this act, codified as chapter 50.22 RCW, was January 17, 1971.

Repealer—Effect as to benefits—1971 c 1: "Section 23, chapter 2, Laws of 1970 ex.s. and RCW 50.20.127 are each hereby repealed. No benefits shall be paid pursuant to RCW 50.20.127 for weeks commencing on or after the effective date of this 1971 amendatory act." [1971 c 1 § 10.]

50.22.030 Extended benefit eligibility conditions—Interstate claims. (1) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds with respect to such week that:

(a) The individual is an "exhaustee" as defined in RCW 50.22.010;

(b) He or she has satisfied the requirements of this title for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(c) He or she has earned wages in the applicable base year of at least forty times his or her weekly benefit amount.

(2) An individual filing an interstate claim in any state under the interstate benefit payment plan shall not be eligible to receive extended benefits for any week beyond the first two weeks claimed for which extended

benefits are payable unless an extended benefit period embracing such week is also in effect in the agent state. [1982 1st ex.s. c 18 § 4; 1981 c 35 § 9; 1971 c 1 § 4.]

Effective dates—1982 1st ex.s. c 18: "Sections 2, 9[10], 10[11], 11[12], 16[17], and 17[18] of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [April 2, 1982]. Section 4 of this act shall take effect on September 26, 1982." [1982 1st ex.s. c 18 § 23.] The bracketed section references in this section correct erroneous internal references which occurred during the engrossing process after a new section was added by amendment.

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Construction—1981 c 35 §§ 3, 5, 8, and 9: "Sections 3, 5, and 8 of this 1981 amendatory act are being enacted to comply with the provisions of Pub. L. 96-499. Ambiguities in those sections should be interpreted in accordance with provisions of that federal law. Section 9 of this 1981 amendatory act is enacted pursuant to Pub. L. 96-364. Any ambiguities in that section should be construed in accordance with that federal law." [1981 c 35 § 15.] Sections 3, 5, and 8 of 1981 c 35 are amendments to RCW 50.20.010, 50.20.120, and 50.22.020, respectively. Section 9 of 1981 c 35 is an amendment to RCW 50.22.030.

Effective dates—1981 c 35 §§ 1, 2, 3, 5, 8, 9, and 12: "Sections 1, 2, 3, 5, 8, and 12 of this 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 immediately [April 20, 1981]; section 9 of this 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 with weeks beginning on and after June 1, 1981." [1981 c 35 § 16.] Sections 1, 2, 3, 5, 8, and 12 of 1981 c 35 are amendments to RCW 50.04.323, 50.13.020, 50.20.010, 50.20.120, 50.22.020, and 50.44.050, respectively. Section 9 of 1981 c 35 is an amendment to RCW 50.22.030.

Severability—1981 c 35: "If any provision of this 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." [1981 c 35 § 17.]

50.22.050 Total extended benefit amount—Reduction. (1) The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be the least of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him under this title in his applicable benefit year;

(b) Thirteen times his weekly benefit amount which was payable to him under this title for a week of total unemployment in the applicable benefit year; or

(c) Thirty-nine times his weekly benefit amount which was payable to him under this title for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid (or deemed paid) to him under this title with respect to the benefit year.

(2) Notwithstanding any other provision of this chapter, if the benefit year of any eligible individual ends within an extended benefit period, the extended benefits which the individual would otherwise be entitled to receive with respect to weeks of unemployment beginning after the end of the benefit year and within the extended benefit period shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amount as a trade readjustment allowance within that benefit year, multiplied by the

individual's weekly extended benefit amount. [1982 1st ex.s. c 18 § 5; 1971 c 1 § 6.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

50.22.060 Public announcements when extended benefit periods become effective or are terminated—Computations of rate of insured unemployment. (1) Whenever an extended benefit period is to become effective in this state (or in all states) as a result of an "on" indicator, or an extended benefit period is to be terminated in this state as a result of an "off" indicator, the commissioner shall make an appropriate public announcement.

(2) Computations required by the provisions of RCW 50.22.010(4) shall be made by the commissioner, in accordance with regulations prescribed by the United States secretary of labor. [1982 1st ex.s. c 18 § 3; 1971 c 1 § 7.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

50.22.100 Additional benefits—Eligibility—Amount—Terms and conditions. (1) Additional benefits are payable to eligible persons who are "exhaustees" with respect to extended benefits. The term "exhaustee" is deemed to have the same meaning with respect to extended benefits as with respect to regular benefits.

(2) Additional benefit amounts shall be calculated pursuant to RCW 50.22.050(1) and (2).

(3) Eligibility for additional benefits shall be determined and benefits shall be paid under the same terms and conditions as for extended benefits. [1982 1st ex.s. c 18 § 17.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

50.22.110 Additional benefit period established—To whom payable—Proposals by department. (1) Notwithstanding RCW 50.22.010(8)(a), an additional benefit period is established for weeks of unemployment which begin on or after the third Sunday following April 2, 1982: *Provided*, That this additional benefit period will be suspended during any week in which an extended benefit period is not in effect.

(2) Additional benefits are payable to otherwise eligible persons who have exhausted extended benefits on their most recent claim after July 1, 1980.

(3) The department of employment security shall develop proposals for a permanent program of additional benefits. The proposals shall address alternatives in trigger mechanisms, benefit levels, eligibility requirements, and unemployment insurance financing. [1982 1st ex.s. c 18 § 18.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following 50.12.200.

50.22.120 Additional benefits—Termination date for payment. Benefits under RCW 50.22.100 and 50.22.110 are not payable for weeks of unemployment

beginning after February 26, 1983, unless extended by law. [1982 1st ex.s. c 18 § 19.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Chapter 50.24

CONTRIBUTIONS BY EMPLOYERS

Sections

50.24.130 Contractor's and principal's liability for contributions—Exceptions.

50.24.130 Contractor's and principal's liability for contributions—Exceptions. No employing unit which contracts with or has under it any contractor or subcontractor who is an employer under the provisions of this title shall make any payment or advance to, or secure any credit for, such contractor or subcontractor or on account of any contract or contracts to which said employing unit is a party unless such contractor or subcontractor has paid contributions, due or to become due for wages paid or to be paid by such contractor or subcontractor for personal services performed pursuant to such contract or subcontract, or has furnished a good and sufficient bond acceptable to the commissioner for payment of contributions, interest, and penalties. Failure to comply with the provisions of this section shall render said employing unit directly liable for such contributions, interest, and penalties and the commissioner shall have all of the remedies of collection against said employing unit under the provisions of this title as though the services in question were performed directly for said employing unit.

For the purposes of this section, a contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW shall not be responsible for any contributions for the work of any subcontractor if:

(1) The subcontractor is currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) There is no other person, firm or corporation doing the same work at the same time on the same project except two or more persons, firms or corporations may contract and do the same work at the same time on the same project if each person, firm or corporation has employees;

(3) The subcontractor has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(4) The subcontractor maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(5) The subcontractor has contracted to perform:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical

industry as described in chapter 19.28 RCW. [1982 1st ex.s. c 18 § 15; 1979 ex.s. c 190 § 11; 1973 1st ex.s. c 158 § 10; 1949 c 214 § 21; 1945 c 35 § 101; Rem. Supp. 1949 § 9998-239.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

Chapter 50.32

REVIEW, HEARINGS AND APPEALS

Sections

50.32.080 Commissioner's review procedure.
50.32.095 Commissioner's decisions as precedents—Publication.

50.32.080 Commissioner's review procedure. After having acquired jurisdiction for review, the commissioner shall review the proceedings in question. Prior to rendering his decision, the commissioner may order the taking of additional evidence by an appeal tribunal to be made a part of the record in the case. Upon the basis of evidence submitted to the appeal tribunal and such additional evidence as the commissioner may order to be taken, the commissioner shall render his decision in writing affirming, modifying, or setting aside the decision of the appeal tribunal. Alternatively, the commissioner may order further proceedings to be held before the appeal tribunal, upon completion of which the appeal tribunal shall issue a decision in writing affirming, modifying, or setting aside its previous decision. The new decision may be appealed under RCW 50.32.070. The commissioner shall mail his decision to the interested parties at their last known addresses. [1982 1st ex.s. c 18 § 8; 1945 c 35 § 124; Rem. Supp. 1945 § 9998-262.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

50.32.095 Commissioner's decisions as precedents—Publication. The commissioner may designate certain commissioner's decisions as precedents. The commissioner's decisions designated as precedents shall be published and made available to the public by the department. [1982 1st ex.s. c 18 § 9.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Chapter 50.38

OCCUPATIONAL INFORMATION SERVICE— FORECAST

Sections

50.38.010 Purpose.
50.38.020 Department as state entity for occupational information—State occupational forecast, criteria.
50.38.030 State occupational forecast—Consultation with other agencies.
50.38.900 Effective date—1982 c 43.

50.38.010 Purpose. It is the intent of this chapter to establish a single state administered occupational information service, including the state occupational forecast. [1982 c 43 § 1.]

50.38.020 Department as state entity for occupational information—State occupational forecast, criteria. The Washington state employment security department shall be the responsible state entity for the development, administration, and dissemination of Washington state occupational information, including the state occupational forecast. The generation of the forecast is subject to the following criteria:

(1) The occupational forecast shall be consistent with the state economic forecast;

(2) Standardized occupational classification codes shall be adopted, to be cross-referenced with other generally accepted occupational codes. [1982 c 43 § 2.]

50.38.030 State occupational forecast—Consultation with other agencies. The employment security department shall consult with the following agencies prior to the issuance of the state occupational forecast:

- (1) Office of financial management;
- (2) Department of commerce and economic development;
- (3) Department of labor and industries;
- (4) State board for community college education;
- (5) Superintendent of public instruction;
- (6) Department of social and health services;
- (7) Planning and community affairs agency;
- (8) Commission for vocational education; and
- (9) Other state and local agencies as deemed appropriate by the commissioner of the employment security department.

These agencies shall cooperate with the employment security department, submitting information relevant to the generation of occupational forecasts. [1982 c 43 § 3.]

50.38.900 Effective date—1982 c 43. This act shall take effect July 1, 1982. [1982 c 43 § 5.]

Reviser's note: This act, 1982 c 43, is codified in RCW 50.38.010, 50.38.020, 50.38.030 and 50.38.900.

Chapter 50.40

MISCELLANEOUS PROVISIONS

Sections

50.40.020 Exemption of benefits.
50.40.050 Child support obligations—Disclosure—Notification of enforcement agency—Amounts deducted from payments, paid to enforcement agency—Definitions.

50.40.020 Exemption of benefits. Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this title shall be void. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts, except as

provided in RCW 50.40.050. Benefits received by any individual, so long as they are not commingled with other funds of the recipient, shall be exempt from any remedy whatsoever for collection of all debts except debts incurred for necessities furnished such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void. [1982 1st ex.s. c 18 § 10. Prior: 1982 c 201 § 7; 1945 c 35 § 183; Rem. Supp. 1945 § 9998-322; prior: 1943 c 127 § 11; 1941 c 253 § 12; 1939 c 214 § 13; 1937 c 162 § 15. Formerly codified in RCW 50.40.020, part and 50.40-.030, part.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

50.40.050 Child support obligations—Disclosure—Notification of enforcement agency—Amounts deducted from payments, paid to enforcement agency—Definitions. (1) An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under subsection (7) of this section. If the individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the state or local child support enforcement agency enforcing those obligations that the individual has been determined to be eligible for unemployment compensation.

(2) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations as defined under subsection (7) of this section:

(a) The amount specified by the individual to the commissioner to be deducted and withheld under this subsection, if neither (b) nor (c) of this subsection is applicable;

(b) The amount (if any) determined pursuant to an agreement submitted to the commissioner under section 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency, unless (c) of this subsection is applicable; or

(c) Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of the Social Security Act, properly served upon the commissioner.

(3) Any amount deducted and withheld under subsection (2) of this section shall be paid by the commissioner to the appropriate state or local child support enforcement agency.

(4) Any amount deducted and withheld under subsection (2) of this section shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by that individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(5) For the purposes of this section, "unemployment compensation" means any compensation payable under

this chapter including amounts payable by the commissioner under an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(6) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(7) "Child support obligations" as used in this section means only those obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the secretary of health and human services under part D of Title IV of the Social Security Act.

(8) "State or local child support enforcement agency" as used in this section means any agency of this state or a political subdivision thereof operating pursuant to a plan described in subsection (7) of this section. [1982 1st ex.s. c 18 § 11. Prior: 1982 c 201 § 3.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Title 51

INDUSTRIAL INSURANCE

Chapters

- 51.04** General provisions.
- 51.08** Definitions.
- 51.12** Employments and occupations covered.
- 51.14** Self-insurers.
- 51.32** Compensation—Right to and amount.
- 51.36** Medical aid.
- 51.41** Vocational rehabilitation plans.
- 51.44** Funds.
- 51.48** Penalties.
- 51.52** Appeals.

Chapter 51.04

GENERAL PROVISIONS

Sections

- 51.04.110 Workers' compensation advisory committee—Members, terms, compensation—Duties—Expenses—Study.

51.04.110 Workers' compensation advisory committee—Members, terms, compensation—Duties—Expenses—Study. The director shall appoint a workers' compensation advisory committee composed of ten members: Three representing subject workers, three representing subject employers, one representing self-insurers, one representing workers of self-insurers, and two ex officio members, without a vote, one of whom shall be the chairman of the board of industrial appeals and the other the representative of the department. The member representing the department shall be chairman.

This committee shall conduct a continuing study of any aspects of workers' 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 workers 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 travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. 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. [1982 c 109 § 2; 1980 c 14 § 3. Prior: 1977 ex.s. c 350 § 7; 1977 c 75 § 78; 1975-'76 2nd ex.s. c 34 § 150; 1975 ex.s. c 224 § 1; 1972 ex.s. c 43 § 37; 1971 ex.s. c 289 § 67.]

Legislative joint committee on workers' compensation—1980 c 129: "(1) There is hereby created the joint committee on workers' compensation to conduct a comprehensive examination of the present workers' compensation program in the state. The committee shall be bipartisan in nature and shall be composed of four senators appointed by the majority leader of the senate and four representatives appointed by the speakers of the house. The committee may appoint up to seven nonlegislators representing various interested parties to serve as ex-officio, nonvoting members.

(2) In conducting its study, the committee shall consider, but not be limited to, the following areas:

- (a) Definition, adequacy, and methods of determining benefits;
- (b) Medical, rehabilitation, and reemployment procedures and services;
- (c) Administrative organization and claims management;
- (d) Rate-making and methods of financing;
- (e) Coverage of professional athletes and the classifications and rates established for professional sports teams;
- (f) Audit and appeals procedures;
- (g) Safety standards; and
- (h) Occupational disease.

(3) The committee shall hold meetings and hearings at the times and places it designates to accomplish the purposes of this section. It shall make use of existing legislative facilities and the staff of the house and senate. The committee shall have authority to contract for expert services and opinions relevant to its study.

(4) The committee shall report its initial findings and recommendations to the legislature no later than January 1, 1981. A final report shall be submitted to the legislature no later than January 1, 1983.

(5) The committee shall cease to exist on July 1, 1983, unless extended by law for an additional fixed period of time." [1980 c 129 § 3.]

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

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

51.08.180 "Worker"—Exception.

51.08.180 "Worker"—Exception. "Worker" means every person in this state who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment: *Provided*, That a person is not a worker for the purpose of this title, with respect to his or her activities attendant to operating a truck which he or she owns, and which is leased to a common or contract carrier.

For the purposes of this title, any person, firm, or corporation currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW is not a worker when:

(1) Contracting to perform work for any contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) The person, firm, or corporation has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(3) The person, firm, or corporation maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(4) The work which the person, firm, or corporation has contracted to perform is:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW. [1982 c 80 § 1; 1981 c 128 § 2; 1977 ex.s. c 350 § 15; 1961 c 23 § 51.08.180. Prior: 1957 c 70 § 20; prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part; RRS § 7675, part. (ii) 1937 c 211 § 2; RRS § 7674-1.]

Chapter 51.12

EMPLOYMENTS AND OCCUPATIONS COVERED

Sections

51.12.020	Employments excluded.
51.12.090	Intrastate and interstate commerce—Common carrier employers.
51.12.110	Elective adoption—Withdrawal—Cancellation.

51.12.020 Employments excluded. The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, repair, remodeling, or similar work in or about the private home of the employer.

(3) A person whose employment is not in the course of the trade, business, or profession of his or her employer and is not in or about the private home of the employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors or partners: *Provided*, That after July 26, 1981, sole proprietors or partners who for the first time register under chapter 18.27 RCW or become licensed for the first time under chapter 19.28 RCW shall be included under the mandatory coverage provisions of this title subject to the provisions of RCW 51.32.030. These persons may elect to withdraw from coverage under RCW 51.12.115.

(6) Any employee, not regularly and continuously employed by the employer in agricultural labor, whose cash remuneration paid by or due from any one employer in that calendar year for agricultural labor is less than one hundred fifty dollars. Employees not regularly and continuously employed in agricultural labor by any one employer but who are employed in agricultural labor on a seasonal basis shall come under the coverage of this title only when their cash remuneration paid or due in that calendar year exceeds one hundred fifty dollars but only as of the occurrence of that event and only as to their work for that employer.

(7) Any child under eighteen years of age employed by his parent or parents in agricultural activities on the family farm.

(8) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW.

(9) Any executive officer elected and empowered in accordance with the articles of incorporation or bylaws of a corporation who at all times during the period involved is also a director and shareholder of the corporation. Any officer who was considered by the department to be covered on and after June 30, 1977, shall continue to be covered until such time as the officer voluntarily elects to withdraw from coverage in the manner provided by RCW 51.12.110. However, any corporation may elect to cover such officers who are in fact employees of the corporation in the manner provided by RCW 51.12.110. [1982 c 63 § 15; 1981 c 128 § 3; 1979 c 128 § 1; 1977 ex.s. c 323 § 7; 1973 c 124 § 1; 1972 ex.s. c 43 § 7; 1971 ex.s. c 289 § 3; 1961 c 23 § 51.12.020. Prior: 1955 c 74 § 3; prior: 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.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

51.12.090 Intrastate and interstate commerce—Common carrier employers. (1) The provisions of this title shall apply to employers and workers (other than railways and their workers) engaged in intrastate and also in interstate or foreign commerce, for whom a rule of liability or method of compensation now exists under or may hereafter be established by the congress of the United States, only to the extent that the payroll of such workers may and shall be clearly separable and distinguishable from the payroll of workers engaged in interstate or foreign commerce: *Provided*, That, except as provided under subsection (2) of this section, as to workers whose payroll is not so clearly separable and distinguishable the employer shall in all cases be liable in damages for injuries to the same extent and under the same circumstances as is specified in the case of railroads in the first proviso of RCW 51.12.080: *Provided further*, That nothing in this title shall be construed to exclude goods or materials and/or workers brought into this state for the purpose of engaging in work.

(2) Common carrier employers engaged in intrastate commerce and also interstate or foreign commerce may exempt themselves from being liable for damages under this title as provided under subsection (1) of this section so long as at the time of such injury:

(a) The employer is domiciled in this state;

(b) The injured person is a worker as defined under this title;

(c) The employer has secured payment of compensation; and

(d) The employer has made election to cover all such persons in the manner provided by RCW 51.12.110. [1982 c 63 § 16; 1977 ex.s. c 350 § 20; 1972 ex.s. c 43 § 10; 1961 c 23 § 51.12.090. Prior: 1959 c 308 § 10; 1919 c 67 § 3; RRS § 7695.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.12.110 Elective adoption—Withdrawal—Cancellation. Any employer who has in his or her employment any person or persons excluded from mandatory coverage pursuant to RCW 51.12.020 (1), (2), (3), (4), (6), (7), (8), or (9) may file notice in writing with the director, on such forms as the department may provide, of his or her election to make such persons otherwise excluded subject to this title. The employer shall forthwith display in a conspicuous manner about his or her works, and in a sufficient number of places to reasonably inform his or her workers of the fact, printed notices furnished by the department stating that he or she has so elected. Said election shall become effective upon the filing of said notice in writing. The employer and his or her workers shall be subject to all the provisions of this title and entitled to all of the benefits thereof: *Provided*, That those who have heretofore complied with the foregoing conditions and are carried and considered by the department as within the purview of this title shall be deemed and considered as having fully complied with its terms and shall be continued by the department as entitled to all of the benefits and subject to all of the liabilities without other or further action.

Any employer who has complied with this section may withdraw his or her acceptance of liability under this title by filing written notice with the director of the withdrawal of his or her acceptance. Such withdrawal shall become effective thirty days after the filing of such notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The employer shall, at least thirty days before the effective date of the withdrawal, post reasonable notice of such withdrawal where the affected worker or workers work and shall otherwise notify personally the affected workers. Withdrawal of acceptance of this title shall not affect the liability of the department or self-insurer for compensation for any injury occurring during the period of acceptance.

The department shall have the power to cancel the elective adoption coverage if any required payments or reports have not been made. Cancellation by the department shall be no later than thirty days from the date of notice in writing by the department advising of cancellation being made. [1982 c 63 § 17; 1980 c 14 § 6. Prior: 1977 ex.s. c 350 § 22; 1977 ex.s. c 323 § 8; 1971 ex.s. c 289 § 85; 1961 c 23 § 51.12.110; prior: 1959 c 308 § 11; 1929 c 132 § 5; 1923 c 136 § 6; 1911 c 74 § 19; RRS § 7696.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

Chapter 51.14 SELF-INSURERS

Sections

- 51.14.150 School districts or ESD's as self-insurers—Authorized—Organization—Qualifications.
51.14.160 School districts or ESD's as self-insurers—Rules—Scope.

51.14.150 School districts or ESD's as self-insurers—Authorized—Organization—Qualifications. The boards of directors of school districts or educational service districts may enter into agreements to form self-insurance groups for educational agencies. Such self-insurance groups shall be organized and operated under rules promulgated by the director under RCW 51.14.160. Such a self-insurance group shall be deemed an employer for the purposes of this chapter, and may qualify as a self-insurer if it meets all the other requirements of this chapter. [1982 c 191 § 7.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Educational service district as self-insurer—Authority: RCW 28A.21.255.

School district as self-insurer—Authority: RCW 28A.58.410.

51.14.160 School districts or ESD's as self-insurers—Rules—Scope. The director shall promulgate rules to carry out the purposes of RCW 51.14.150:

(1) Governing the formation of self-insurance groups for educational agencies.

(2) Governing the organization and operation of the groups to assure their compliance with the requirements of this chapter.

(3) Requiring adequate monetary reserves, determined under accepted actuarial practices, to be maintained by each group to assure financial solvency of the group.

(4) Requiring each group to carry adequate reinsurance. [1982 c 191 § 8.]

Effective date—Severability—1982 c 191: See notes following RCW 28A.57.170.

Chapter 51.32

COMPENSATION—RIGHT TO AND AMOUNT

Sections

- 51.32.040 Exemption of awards—Payment of awards after death—Time limitations for filing—Confinement in institution under conviction and sentence (as amended by 1982 c 109).
51.32.040 Exemption of awards—Payment of awards after death—Time limitations for filing—Confinement in institution under conviction and sentence (as amended by 1982 c 201).
51.32.045 Direct deposit of benefits into financial institutions authorized.
51.32.050 Death benefits.
51.32.075 Adjustments in compensation or death benefits.
51.32.080 Permanent partial disability—Specified—Unspecified, rules authorized for classification thereof—Injury after permanent partial disability.
51.32.095 Temporary total disability—Vocational rehabilitation—Benefits authorized—Expert assistance—Room and board—Costs.
51.32.190 Self-insurers—Notice of denial of claim, reasons—Procedure—Director authorized to investigate and settle controversies, enact rules and regulations.
51.32.220 Reduction in compensation for temporary or permanent total disability—Limitations—Notice—Waiver.
51.32.250 Payment of job modification costs.

51.32.040 Exemption of awards—Payment of awards after death—Time limitations for filing—Confinement in institution under conviction and sentence (as amended by 1982 c 109). No money paid or payable under this title shall, except as provided for in RCW 74.20A.260, prior to the issuance and delivery of the check or warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, nor shall the same pass, or be paid, to any other person by operation of law, or by any form of voluntary assignment, or power of attorney. Any such assignment or charge shall be void, unless the transfer is to a financial institution at the request of a worker or other beneficiary and in accordance with RCW 51.32.045 shall be made: *Provided*, That if any worker suffers a permanent partial injury, and dies from some other cause than the accident which produced such injury before he or she shall have received payment of his or her award for such permanent partial injury, or if any worker suffers any other injury before he or she shall have received payment of any monthly installment covering any period of time prior to his or her death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: *Provided further*, That, if any worker suffers an injury and dies therefrom before he or she shall have received payment of any monthly installment covering time loss for any period of time prior to his or her death, the amount of such monthly payment shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: *Provided further*, That any application for compensation under the foregoing provisos of

this section shall be filed with the department or self-insuring employer within one year of the date of death: *Provided further*, That if the injured worker resided in the United States as long as three years prior to the date of injury, such payment shall not be made to any surviving spouse or child who was at the time of the injury a nonresident of the United States: *Provided further*, That any worker receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible therefor while confined in, any institution under conviction and sentence shall have all payments of such compensation canceled during the period of confinement but after discharge from the institution payment of benefits thereafter due shall be paid if such worker would, but for the provisions of this proviso, otherwise be entitled thereto: *Provided further*, That if any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she shall be entitled to payments under this title subject to the requirements of chapter 72.65 RCW unless his or her participation in such program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence: *Provided further*, That if such incarcerated worker has during such confinement period, any beneficiaries, they shall be paid directly the monthly benefits which would have been paid to him or her for himself or herself and his or her beneficiaries had he or she not been so confined. Any lump sum benefits to which the worker would otherwise be entitled but for the provisions of these provisos shall be paid on a monthly basis to his or her beneficiaries. [1982 c 109 § 10; 1979 ex.s. c 171 § 11; 1977 ex.s. c 350 § 41; 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.]

51.32.040 Exemption of awards—Payment of awards after death—Time limitations for filing—Confinement in institution under conviction and sentence (as amended by 1982 c 201). No money paid or payable under this title shall, except as provided for in RCW 74.04.530 or 74.20A.260, prior to the issuance and delivery of the check or warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, nor shall the same pass, or be paid, to any other person by operation of law, or by any form of voluntary assignment, or power of attorney. Any such assignment or charge shall be void: *Provided*, That if any worker suffers a permanent partial injury, and dies from some other cause than the accident which produced such injury before he or she shall have received payment of his or her award for such permanent partial injury, or if any worker suffers any other injury before he or she shall have received payment of any monthly installment covering any period of time prior to his or her death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: *Provided further*, That, if any worker suffers an injury and dies therefrom before he or she shall have received payment of any monthly installment covering time loss for any period of time prior to his or her death, the amount of such monthly payment shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: *Provided further*, That any application for compensation under the foregoing provisos of this section shall be filed with the department or self-insuring employer within one year of the date of death: *Provided further*, That if the injured worker resided in the United States as long as three years prior to the date of injury, such payment shall not be made to any surviving spouse or child who was at the time of the injury a nonresident of the United States: *Provided further*, That any worker receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible therefor while confined in, any institution under conviction and sentence shall have all payments of such compensation canceled during the period of confinement but after discharge from the institution payment of benefits thereafter due shall be paid if such worker would, but for the provisions of this proviso, otherwise be entitled thereto: *Provided further*, That if any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she shall be entitled to payments under this title subject to the requirements of chapter 72.65 RCW unless his or her participation in such program has been

canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence: *Provided further*, That if such incarcerated worker has during such confinement period, any beneficiaries, they shall be paid directly the monthly benefits which would have been paid to him or her for himself or herself and his or her beneficiaries had he or she not been so confined. Any lump sum benefits to which the worker would otherwise be entitled but for the provisions of these provisos shall be paid on a monthly basis to his or her beneficiaries. [1982 c 201 § 8; 1979 ex.s. c 171 § 11; 1977 ex.s. c 350 § 41; 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.]

Reviser's note: RCW 51.32.040 was amended twice during the 1982 regular session of the legislature, each without reference to the other.

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

Severability—1979 ex.s. c 171: See note following RCW 74.20.300.

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.

51.32.045 Direct deposit of benefits into financial institutions authorized. Any worker or other recipient of benefits under this title may elect to have any payments due transferred to such person's account in a financial institution for either: (1) Credit to the recipient's account in such financial institution; or (2) immediate transfer therefrom to the recipient's account in any other financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the recipients involved, and written directions provided to such financial institution of the amount to be credited to the account of a recipient or to be transferred to an account in another financial institution for such recipient. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth in this section and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the recipient.

For the purposes of this section "financial institution" shall have the meaning given in RCW 41.04.240 as now or hereafter amended. [1982 c 109 § 11.]

51.32.050 Death benefits. (1) Where death results from the injury the expenses of burial not to exceed two thousand dollars shall be paid.

(2) (a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker but not less than one hundred eighty-five dollars;

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker but not less than two hundred twenty-two dollars;

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker but not less than two hundred fifty-three dollars;

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker but not less than two hundred seventy-six dollars;

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker but not less than two hundred ninety-nine dollars; or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker but not less than three hundred twenty-two dollars.

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker 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 monthly benefits payable as a result of the worker's death 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.

(c) Payments to the surviving spouse of the deceased worker 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 worker shall from the month following such remarriage be a sum equal to five percent of the wages of the deceased worker 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.

(d) 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.

(e) In addition to the monthly payments provided for in (2)(a) through (2)(c) of this section, a surviving spouse or child or children of such worker 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 worker shall be forthwith paid the sum of one thousand six hundred dollars, any such children, or parents to share and share alike in said sum.

(f) 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. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) Receiving, 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: *Provided*, That if the injury occurred prior to July 1, 1971, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in (2)(f)(i) of this section during the life of the remarriage, or 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.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in (2)(f)(i) of this section, 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.

(h) The effective date of resumption of payments under (2)(f)(ii) of this section 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.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in *chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker 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 worker 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 worker at the time of his or her 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

worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker 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 worker 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 worker 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 worker 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 worker remarries. [1982 c 63 § 18; 1977 ex.s. c 350 § 42; 1975-'76 2nd ex.s. c 45 § 2; 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.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

Legislative intent—1975 1st ex.s. c 179: "The legislative intent of chapter 179, Laws of 1975 1st ex. sess. (2nd SSB No. 2241) was in part to offer surviving spouses of eligible workmen two options upon remarriage; such options to be available to any otherwise eligible surviving spouse regardless of the date of death of the injured workman. Accordingly *this 1976 amendatory act is required to clarify that intent." [1975-'76 2nd ex.s. c 45 § 1.]

***Reviser's note:** "this 1976 amendatory act" and "chapter 45, Laws of 1975-'76 2nd ex. sess." consist of the legislative intent section noted above and the amendment of RCW 51.32.050 by 1975-'76 2nd ex.s. c 45 § 2.

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

51.32.075 Adjustments in compensation or death benefits. 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) On July 1, 1982, there shall be an adjustment for those whose right to compensation was established on or after July 1, 1971, and before July 1, 1982. The 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 average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1, 1982.

(2) In addition to the adjustment established by subsection (1) of this section, there shall be another adjustment on July 1, 1983, for those whose right to compensation was established on or after July 1, 1971, and before July 1983, which shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1, 1983. [1982 1st ex.s. c 20 § 1; 1979 c 108 § 1; 1977 ex.s. c 202 § 2; 1975 1st ex.s. c 286 § 2.]

Effective date—1982 1st ex.s. c 20: "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, 1982." [1982 1st ex.s. c 20 § 4.]

51.32.080 Permanent partial disability—Specified—Unspecified, rules authorized for classification thereof—Injury after permanent partial disability. (1) For the permanent partial disabilities here specifically described, the injured worker shall receive compensation as follows:

LOSS BY AMPUTATION

Of leg above the knee joint with short thigh stump (3" or less below the tuberosity of ischium)	\$36,000.00
Of leg at or above knee joint with functional stump	32,400.00
Of leg below knee joint	28,800.00
Of leg at ankle (Syme)	25,200.00
Of foot at mid-metatarsals	12,600.00
Of great toe with resection of metatarsal bone	7,560.00
Of great toe at metatarsophalangeal joint	4,536.00
Of great toe at interphalangeal joint	2,400.00
Of lesser toe (2nd to 5th) with resection of metatarsal bone	2,760.00
Of lesser toe at metatarsophalangeal joint	1,344.00
Of lesser toe at proximal interphalangeal joint	996.00
Of lesser toe at distal interphalangeal joint	252.00
Of arm at or above the deltoid insertion or by disarticulation at the shoulder	36,000.00

Of arm at any point from below the deltoid insertion to below the elbow joint at the insertion of the biceps tendon . . .	34,200.00
Of arm at any point from below the elbow joint distal to the insertion of the biceps tendon to and including mid-metacarpal amputation of the hand .	32,400.00
Of all fingers except the thumb at metacarpophalangeal joints	19,440.00
Of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone	12,960.00
Of thumb at interphalangeal joint	6,480.00
Of index finger at metacarpophalangeal joint or with resection of metacarpal bone	8,100.00
Of index finger at proximal interphalangeal joint	6,480.00
Of index finger at distal interphalangeal joint	3,564.00
Of middle finger at metacarpophalangeal joint or with resection of metacarpal bone	6,480.00
Of middle finger at proximal interphalangeal joint	5,184.00
Of middle finger at distal interphalangeal joint	2,916.00
Of ring finger at metacarpophalangeal joint or with resection of metacarpal bone	3,240.00
Of ring finger at proximal interphalangeal joint	2,592.00
Of ring finger at distal interphalangeal joint	1,620.00
Of little finger at metacarpophalangeal joint or with resection of metacarpal bone	1,620.00
Of little finger at proximal interphalangeal joint	1,296.00
Of little finger at distal interphalangeal joint	648.00

MISCELLANEOUS

Loss of one eye by enucleation	14,400.00
Loss of central visual acuity in one eye . . .	12,000.00
Complete loss of hearing in both ears	28,800.00
Complete loss of hearing in one ear	4,800.00

(2) Compensation for amputation of a member or part thereof at a site other than those above specified, and for loss of central visual acuity and loss of hearing other than complete, shall be in proportion to that which such other amputation or partial loss of visual acuity or hearing most closely resembles and approximates. Compensation for any other permanent partial disability not involving amputation shall be in the proportion which the extent of such other disability, called unspecified disability, shall bear to that above specified, which most closely resembles and approximates in degree of disability such other disability, compensation for any other unspecified permanent partial disability shall be in an amount as measured and compared to total bodily impairment: *Provided*, That in order to reduce litigation

and establish more certainty and uniformity in the rating of unspecified permanent partial disabilities, the department shall enact rules having the force of law classifying such disabilities in the proportion which the department shall determine such disabilities reasonably bear to total bodily impairment. In enacting such rules, the department shall give consideration to, but need not necessarily adopt, any nationally recognized medical standards or guides for determining various bodily impairments. For purposes of calculating monetary benefits, the amount payable for total bodily impairment shall be deemed to be sixty thousand dollars: *Provided*, That compensation for unspecified permanent partial disabilities involving injuries to the back that do not have marked objective clinical findings to substantiate the disability shall be determined at an amount equal to seventy-five percent of the monetary value of such disability as related to total bodily impairment: *Provided further*, That the total compensation for all unspecified permanent partial disabilities resulting from the same injury shall not exceed the sum of sixty thousand dollars, except that the total compensation for all unspecified permanent partial disabilities involving injuries to the back that do not have marked objective clinical findings to substantiate the disability and resulting from the same injury shall not exceed the sum of forty-five thousand dollars: *Provided further*, That in case permanent total disability compensation is followed by permanent partial disability compensation, any portion of the permanent partial disability compensation which exceeds the amount that would have been paid the injured worker if permanent total disability compensation had been paid in the first instance, shall be deducted from the pension reserve of such injured worker and his or her monthly compensation payments shall be reduced accordingly.

(3) Should a worker receive an injury to a member or part of his or her body already, from whatever cause, permanently partially disabled, resulting in the amputation thereof or in an aggravation or increase in such permanent partial disability but not resulting in the permanent total disability of such worker, his or her compensation for such partial disability shall be adjudged with regard to the previous disability of the injured member or part and the degree or extent of the aggravation or increase of disability thereof.

(4) When the compensation provided for in subsections (1) and (2) exceeds three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, payment shall be made in monthly payments in accordance with the schedule of temporary total disability payments set forth in RCW 51.32.090 until such compensation is paid to the injured worker in full, except that the first monthly payment shall be in an amount equal to three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, and interest shall be paid at the rate of eight percent on the unpaid balance of such compensation commencing with the second monthly payment: *Provided*, That upon application of the injured worker or survivor the monthly payment may be converted, in whole or in part, into a lump sum payment, in

which event the monthly payment shall cease in whole or in part. Such conversion may be made only upon written application of the injured worker or survivor to the department and shall rest in the discretion of the department depending upon the merits of each individual application: *Provided further*, That upon death of a worker all unpaid installments accrued shall be paid according to the payment schedule established prior to the death of the worker to the widow or widower, or if there is no widow or widower surviving, to the dependent children of such claimant, and if there are no such dependent children, then to such other dependents as defined by this title. [1982 1st ex.s. c 20 § 2; 1979 c 104 § 1; 1977 ex.s. c 350 § 46; 1972 ex.s. c 43 § 21; 1971 ex.s. c 289 § 10; 1965 ex.s. c 165 § 1; 1961 c 274 § 3; 1961 c 23 § 51.32.080. Prior: 1957 c 70 § 32; prior: 1951 c 115 § 4; 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—1982 1st ex.s. c 20: See note following RCW 51.32.075.

51.32.095 Temporary total disability—Vocational rehabilitation—Benefits authorized—Expert assistance—Room and board—Costs. One of the primary purposes of this title is the restoration of the injured worker to gainful employment. To this end, the department shall utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation, retraining, and job placement as may be reasonable to qualify the worker for employment consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee, whether or not medical treatment has been concluded, vocational rehabilitation or retraining with job placement is both necessary and likely to restore the injured worker to a form of gainful employment, including self-employment, the supervisor or supervisor's designee may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost of books, tuition, fees, supplies, equipment, transportation, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed three thousand dollars in any fifty-two week period, and continue the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation or retraining with job placement. Such expenses may include training fees for on-the-job training and the cost of furnishing tools and other equipment necessary for self-employment or reemployment: *Provided*, That such compensation or payment of retraining with

job placement expenses may not be authorized for a period of more than fifty-two weeks: *Provided further*, That such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging shall also be paid. Said costs shall be chargeable to the employer's cost experience or shall be paid by the self-insurer as the case may be. [1982 c 63 § 11; 1980 c 14 § 10. Prior: 1977 ex.s. c 350 § 48; 1977 ex.s. c 323 § 16; 1972 ex.s. c 43 § 23; 1971 ex.s. c 289 § 12.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Vocational rehabilitation plans: Chapter 51.41 RCW.

51.32.190 Self-insurers—Notice of denial of claim, reasons—Procedure—Director authorized to investigate and settle controversies, enact rules and regulations. (1) If the self-insurer denies a claim for compensation, written notice of such denial, clearly informing the claimant of the reasons therefor and that the director will rule on the matter shall be mailed or given to the claimant and the director within thirty days after the self-insurer has notice of the claim.

(2) Until such time as the department has entered an order in a disputed case acceptance of compensation by the claimant shall not be considered a binding determination of his or her rights under this title. Likewise the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments.

(3) Upon making the first payment of income benefits, and upon stopping or changing of such benefits except where a determination of the permanent disability has been made as elsewhere provided in this title, the self-insurer shall immediately notify the director in accordance with a form to be prescribed by the director that the payment of income benefits has begun or has been stopped or changed. Where temporary disability compensation is payable, the first payment thereof shall be made within fourteen days after notice of claim and shall continue at regular semimonthly or biweekly intervals.

(4) If, after the payment of compensation without an award, the self-insurer elects to controvert the right to compensation, the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments. The acceptance of compensation by the worker or his or her beneficiaries shall not be considered a binding determination of their rights under this title.

(5) The director (a) may, upon his or her own initiative at any time in a case in which payments are being made without an award, and (b) shall, upon receipt of information from any person claiming to be entitled to compensation, from the self-insurer, or otherwise that

the right to compensation is controverted, or that payment of compensation has been opposed, stopped or changed, whether or not claim has been filed, promptly make such inquiry as circumstances require, cause such medical examinations to be made, hold such hearings, require the submission of further information, make such orders, decisions or awards, and take such further action as he or she considers will properly determine the matter and protect the rights of all parties.

(6) The director, upon his or her own initiative, may make such inquiry as circumstances require or is necessary to protect the rights of all the parties and he or she may enact rules and regulations providing for procedures to ensure fair and prompt handling by self-insurers of the claims of workers and beneficiaries. [1982 1st ex.s. c 20 § 3; 1977 ex.s. c 350 § 54; 1972 ex.s. c 43 § 25; 1971 ex.s. c 289 § 47.]

Effective date—1982 1st ex.s. c 20: See note following RCW 51.32.075.

51.32.220 Reduction in compensation for temporary or permanent total disability—Limitations—Notice—Waiver. (1) For persons under the age of sixty-five 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. Where any person described in this section refuses to authorize the release of information concerning the amount of benefits payable under said federal act the department's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal.

(2) Any reduction under subsection (1) of this section shall be effective the month following the month in which the department or self-insurer is notified by the federal social security administration that the person is receiving disability benefits under the federal old-age, survivors and disability insurance act: *Provided*, That in the event of an overpayment of benefits the department or self-insurer may not recover more than the overpayments for the six months immediately preceding the date the department or self-insurer notifies the worker that an overpayment has occurred: *Provided further*, That upon determining that there has been an overpayment, the department or self-insurer shall immediately notify the person who received the overpayment that he or she shall be required to make repayment pursuant to this section and RCW 51.32.230.

(3) Recovery of any overpayment must be taken from future temporary or permanent total disability benefits or permanent partial disability benefits provided by this

title. In the case of temporary or permanent total disability benefits, the recovery shall not exceed twenty-five percent of the monthly amount due from the department or self-insurer or one-sixth of the total overpayment, whichever is the lesser.

(4) No reduction may be made unless the worker receives notice of the reduction prior to the month in which the reduction is made.

(5) In no event shall the reduction reduce total benefits to less than the greater amount the worker may be entitled to under this title or the federal old-age, survivors and disability insurance act.

(6) 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 overpayment where the recovery would be against equity and good conscience.

(7) The amendment in subsection (1) of this section by *this 1982 act raising the age limit during which the reduction shall be made from age sixty-two to age sixty-five shall apply with respect to workers whose effective entitlement to total disability compensation begins after January 1, 1983. [1982 c 63 § 19; 1979 ex.s. c 231 § 1; 1979 ex.s. c 151 § 1; 1977 ex.s. c 323 § 19; 1975 1st ex.s. c 286 § 3.]

***Reviser's note:** "this 1982 act," see note following RCW 51.41.090.

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

Applicability—1979 ex.s. c 231: "This 1979 act applies to all cases in which notification of the first reduction in compensation pursuant to RCW 51.32.220 is mailed after June 15, 1979, regardless of when the basis, authority, or cause for such reduction may have arisen. To such extent, this 1979 act applies retrospectively, but in all other respects it applies prospectively." [1979 ex.s. c 231 § 2.]

Severability—1979 ex.s. c 231: "If any provision of this 1979 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." [1979 ex.s. c 231 § 3.]

Applicability—1979 ex.s. c 151: "This 1979 act applies to all cases in which notification of the first reduction in compensation pursuant to RCW 51.32.220 is mailed after May 10, 1979, regardless of when the basis, authority, or cause for such reduction may have arisen. To such extent, this 1979 act applies retrospectively, but in all other respects it applies prospectively." [1979 ex.s. c 151 § 3.]

Severability—1979 ex.s. c 151: "If any provision of this 1979 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." [1979 ex.s. c 151 § 4.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

51.32.250 Payment of job modification costs. Modification of the injured worker's previous job is recognized as a desirable method of returning the injured worker to suitable gainful employment. In order to assist employers in meeting the costs of job modification, and to encourage employers to modify jobs to accommodate retaining or hiring workers with disabilities resulting from work-related injury, the supervisor in his or her discretion may pay job modification costs in an amount not to exceed five thousand dollars per worker per job modification. This payment is intended to be a cooperative participation with the employer and funds shall be

taken from the appropriate account within the second injury fund. [1982 c 63 § 13.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

**Chapter 51.36
MEDICAL AID**

Sections

51.36.020 Transportation to place of treatment—Artificial substitutes and mechanical aids—Modifications to residences or motor vehicles.

51.36.020 Transportation to place of treatment—Artificial substitutes and mechanical aids—Modifications to residences or motor vehicles. (1) When the injury to any worker is so serious as to require his or her being taken from the place of injury to a place of treatment, his or her 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.

(2) Every worker whose injury results in the loss of one or more limbs or eyes shall be provided with proper artificial substitutes and every worker, 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 or her disability rating shall be based upon the loss of sight before correction.

(3) Every worker whose accident results in damage to or destruction of an artificial limb, eye, or tooth, shall have same repaired or replaced.

(4) Every worker 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.

(5) All mechanical appliances necessary in the treatment of an injured worker, 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.

(6) A worker, whose injury is of such short duration as to bring him or her 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.

(7) Whenever in the sole discretion of the supervisor it is reasonable and necessary to provide residence modifications necessary to meet the needs and requirements of the worker who has sustained catastrophic injury, the department or self-insurer may be ordered to pay an amount not to exceed the state's average annual wage for one year as determined under RCW 50.04.355, as

now existing or hereafter amended, toward the cost of such modifications or construction. Such payment shall only be made for the construction or modification of a residence in which the injured worker resides. Only one residence of any worker may be modified or constructed under this subsection, although the supervisor may order more than one payment for any one home, up to the maximum amount permitted by this section.

(8) Whenever in the sole discretion of the supervisor it is reasonable and necessary to modify a motor vehicle owned by a worker who has become an amputee or becomes paralyzed because of an industrial injury, the supervisor may order up to fifty percent of the state's average annual wage for one year, as determined under RCW 50.04.355, as now existing or hereafter amended, to be paid by the department or self-insurer toward the costs thereof.

(9) The benefits provided by subsections (7) and (8) of this section are available to any otherwise eligible worker regardless of the date of industrial injury. [1982 c 63 § 12; 1977 ex.s. c 350 § 57; 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 dates—Implementation—1982 c 63: See note following RCW 51.41.090.

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 51.41
VOCATIONAL REHABILITATION PLANS**

Sections

51.41.010 Declaration of policy.
51.41.020 "Qualified injured worker" defined.
51.41.030 Office of rehabilitation review—Created—Powers and duties.
51.41.040 Vocational rehabilitation plan—Employment priorities.
51.41.050 Participation in vocational rehabilitation plan required—Reduction of benefits.
51.41.060 Review of determination of ineligibility or vocational rehabilitation plan—Expedited appeal—Rules.
51.41.070 Continuation of disability benefits during rehabilitation, review, or appeal.
51.41.080 Conflicts with employment agreements.
51.41.090 Rule-making authority.
51.41.100 Annual performance audit of rehabilitation programs.

51.41.010 Declaration of policy. The purpose of rehabilitation in workers' compensation is to return the injured worker to suitable gainful employment as soon as possible. The policy of the state is to provide early notification and referral of qualified injured workers to vocational rehabilitation services, development of comprehensive rehabilitation plans, and independent review and evaluation of service delivery. This policy shall be implemented with the express intent of assisting the

qualified injured worker while avoiding expensive litigation and unnecessary time lost from work. [1982 c 63 § 1.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.020 "Qualified injured worker" defined. For purposes of this chapter, a "qualified injured worker" means an employee who because of the effects of work-related injury or disease, whether or not combined with the effects of a prior industrial injury or disability:

(1) Is permanently precluded or likely to be precluded from engaging in the usual occupation or position in which the worker was engaged at the time of injury; and

(2) Can reasonably be expected to benefit from rehabilitation services which would significantly reduce or eliminate the decrease in the worker's employability. [1982 c 63 § 2.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.030 Office of rehabilitation review—Created—Powers and duties. There is created an office of rehabilitation review within the industrial insurance division of the department of labor and industries. The office shall:

(1) Establish specific definitions, eligibility criteria, and timetables and procedures for the provision of vocational rehabilitation services;

(2) Mediate disputes;

(3) Review and approve or disapprove vocational rehabilitation plans; and

(4) Establish procedures for registration of rehabilitation counselors employed by the state, public, or private agencies and establish criteria and procedures for removal of registered rehabilitation counselors from the list for failure to comply with this chapter or the rules and regulations established by the department. [1982 c 63 § 3.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.040 Vocational rehabilitation plan—Employment priorities. (1) The vocational rehabilitation plan may include modification of the worker's occupation at the time of injury, provisions for alternative work with the same employer, modification of the worker's previous employment with a new employer, direct job placement assistance, on-the-job training, or short-term retraining subject to limitation by RCW 51.32.095. The plan shall define the responsibilities of the worker, employer, and other parties in implementing the plan.

(2) The following order of priorities is preferred in determining suitable gainful employment and developing vocational rehabilitation plans:

(a) Return to the previous job with the same employer;

(b) Modification of the previous job with the same employer including transitional return to work;

(c) A new job with the same employer in keeping with any limitations or restrictions;

(d) Modification of the previous job with a new employer;

(e) A new job with a new employer or self-employment based upon transferable skills;

(f) A new job with a new employer or self-employment involving on-the-job training;

(g) Short-term retraining and job placement.

Prior to any modification of the order of these priorities, the plan shall first be submitted in writing to the office of rehabilitation review for authorization. In the cases involving return to the previous job with the same employer, modification of the previous job with the same employer, or a new job with the same employer, self-insurers shall submit a written, summary report to the office of vocational rehabilitation review but shall not be required to submit a complete, documented vocational rehabilitation plan. [1982 c 63 § 5.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.050 Participation in vocational rehabilitation plan required—Reduction of benefits. Qualified injured workers shall participate in the approved vocational rehabilitation plan. For each week that a qualified injured worker does not participate without a showing of good cause, benefits shall be reduced by one-half on the order of the supervisor. Implementation of the plan shall begin as soon as the qualified injured worker is capable of participation. [1982 c 63 § 8.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.060 Review of determination of ineligibility or vocational rehabilitation plan—Expedited appeal—Rules. (1) If a determination of ineligibility is unacceptable to a worker or employer, or if a vocational rehabilitation plan is unacceptable to a worker or employer, the worker or employer may petition the supervisor of industrial insurance to review the decision. The supervisor, or the supervisor's designee, shall render a final decision within thirty days of receipt of the petition for review.

(2) The worker or employer may appeal a final decision of the supervisor, or the supervisor's designee, to the board of industrial insurance appeals for an expedited appeal which shall be heard as provided in this section. Board review of such decisions shall be limited to matters of law. A final decision rendered within thirty days of the closing of the hearing proceeding, and the procedures relating to recommended decisions and orders, and petitions for review of same, as contained in RCW 51.52.104 and 51.52.106, shall not be applicable to appeals filed under this section. Further appeals taken from the final decision of the board shall be governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.04.130 and 34.04.140 as now existing or hereafter amended. The department shall have the same right of review of the board's decision as does any other aggrieved party.

(3) For purposes of this section, "expedited appeal" means an appeal filed with the board within fifteen working days after receipt of notice of the decision from

the office of rehabilitation review. An expedited appeal shall be heard within thirty calendar days following receipt of (a) the notice of appeal from an aggrieved party, or (b) a legible copy of the records of the office of rehabilitation review, whichever is later. The hearing held under this section shall be recorded and shall be confined to review of the records of the office of rehabilitation review. However, in cases of alleged irregularities in procedure not revealed by the records, testimony concerning such irregularities may be received by the board. The board shall in addition have authority, upon request by the worker or the employer, to hear oral argument and receive written information concerning the matter in dispute.

(4) The board of industrial insurance appeals shall have the authority to make, amend, and rescind in a manner prescribed by chapter 34.04 RCW such rules as may be necessary to carry out this section. [1982 c 63 § 6.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.070 Continuation of disability benefits during rehabilitation, review, or appeal. A qualified injured worker shall be entitled to continuation of temporary total disability benefits as defined in RCW 51.32.090:

(1) During rehabilitation; and

(2) During the pendency of any petition for review to the supervisor or appeal to the board of industrial insurance appeals. [1982 c 63 § 9.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.080 Conflicts with employment agreements. Except as otherwise expressly provided in this chapter, nothing in this chapter may be construed to annul or modify any lawful employment agreement entered into before January 1, 1983, between an employer and an organization of workers. If a conflict exists between an employment agreement and any resolution, rule, policy, or regulation adopted under this chapter, the terms of the employment agreement shall prevail only if the employment agreement was entered into before January 1, 1983. [1982 c 63 § 10.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.41.090 Rule-making authority. The department of labor and industries shall have the authority to make, amend, and rescind in the manner prescribed by chapter 34.04 RCW such rules as may be necessary to carry out this chapter. [1982 c 63 § 4.]

Effective dates—Implementation—1982 c 63: "Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. All other sections of this act shall take effect on January 1, 1983. The director of the

department of labor and industries is authorized to immediately take such steps as are necessary to insure that this act is implemented on its effective dates." [1982 c 63 § 26.] Section 4 of 1982 c 63 took effect on March 26, 1982. The remaining sections of 1982 c 63 consist of the enactment of chapter 51.41 RCW and RCW 51.32.250 and the amendment of RCW 51.12.020, 51.12.090, 51.12.110, 51.32.050, 51.32.095, 51.32.220, 51.36.020, 51.44.040, 51.48.010, 51.48.030, 51.52.120, and 51.52.130.

51.41.100 Annual performance audit of rehabilitation programs. On or before January 1st of each year, the office of financial management shall submit to the legislature a rehabilitation performance audit of the activities of the office of rehabilitation review, the industrial insurance division, self-insurers, and private rehabilitation agencies. The performance audit shall include a statistical summary of all rehabilitation cases, a cost-benefit analysis of vocational rehabilitation plans, return-to-work data, and a comparison of public and private vocational rehabilitation services. The office of financial management may contract with a private firm to conduct the performance audit. [1982 c 63 § 7.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090

Chapter 51.44

FUNDS

Sections

51.44.040 Second injury fund.

51.44.040 Second injury fund. (1) There shall be in the office of the state treasurer, a fund to be known and designated as the "second injury fund", which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.120 and 51.32.250, as now or hereafter amended. Said fund shall be administered by the director. The state treasurer shall be the custodian of the second injury fund and shall be authorized to disburse moneys from it only upon written order of the director.

(2) Payments to the second injury fund from the accident fund shall be made pursuant to rules and regulations promulgated by the director.

(3) Assessments for the second injury fund shall be imposed on self-insurers pursuant to rules and regulations promulgated by the director to ensure that self-insurers shall pay to such fund in the proportion that the payments made from such fund on account of claims made against self-insurers bears to the total sum of payments from such fund. [1982 c 63 § 14; 1977 ex.s. c 323 § 21; 1972 ex.s. c 43 § 27; 1961 c 23 § 51.44.040. Prior: 1959 c 308 § 17; 1947 c 183 § 1; 1945 c 219 § 2; Rem. Supp. 1947 § 7676-1b.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Chapter 51.48 PENALTIES

Sections

- 51.48.010 Employer's liability for penalties, injury or disease occurring prior to time payment of compensation secured.
- 51.48.030 Failure to keep records and make reports.
- 51.48.130 Notice of assessment for default in payments by employer—Appeal to superior court—Bond—Trial—Appeal to court of appeals or supreme court.

51.48.010 Employer's liability for penalties, injury or disease occurring prior to time payment of compensation secured. Every employer shall be liable for the penalties described in this title and may also be liable if an injury or occupational disease has been sustained by a worker prior to the time he or she has secured the payment of such compensation to a penalty in a sum not less than fifty percent nor more than one hundred percent of the cost for such injury or occupational disease. Any employer who has failed to secure payment of compensation for his or her workers covered under this title may also be liable to a maximum penalty in a sum of two hundred dollars or in a sum double the amount of premiums incurred prior to securing payment of compensation under this title, whichever is greater, for the benefit of the medical aid fund. [1982 c 63 § 20; 1977 ex.s. c 350 § 69; 1971 ex.s. c 289 § 61; 1961 c 23 § 51.48.010. Prior: 1947 c 247 § 1(4d), part; Rem. Supp. 1947 § 7676d, part.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.48.030 Failure to keep records and make reports. Every employer who fails to keep the records required by this title or fails to make the reports provided in this title shall be subject to a penalty of not to exceed two hundred percent of the quarterly premium for each such offense. [1982 c 63 § 21; 1971 ex.s. c 289 § 64; 1961 c 23 § 51.48.030. Prior: 1947 c 247 § 1(4d), part; Rem. Supp. 1947 § 7676d, part.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.48.130 Notice of assessment for default in payments by employer—Appeal to superior court—Bond—Trial—Appeal to court of appeals or supreme court. Any employer who is served with a notice of assessment may within thirty days from the date of service upon the employer of the notice of assessment appeal such notice of assessment by serving the director by registered mail with a petition for review and file the same with the clerk of the superior court of the county wherein the work covered by the provisions of the industrial insurance act was performed. This shall be the exclusive means for appeal from notices of assessment. Such petition shall set forth the reasons why the tax

should be reduced or abated. Within ten days after the filing of the petition for review the employer shall file with the clerk a good and sufficient surety bond in the sum of one hundred dollars, conditioned to diligently prosecute the appeal and pay all the department's costs that may be awarded if the appeal of the employer is not sustained.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleading other than the petition for review, and the burden of proof shall rest upon the employer to prove that the tax assessed upon the employer in the notice of assessment is incorrect, either in whole or in part, and to establish the correct amount of the tax, if any. In such proceeding the employer shall be deemed the plaintiff and the department of labor and industries the defendant; and both parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is relevant, competent and material to determine the correct amount of the tax. Either party shall be allowed to appeal to the court of appeals or the supreme court in the same manner as other civil actions are appealed to those courts. No court action or proceeding shall be maintained by any employer to dispute the amount of notice of assessment except as herein provided. [1982 c 109 § 3; 1972 ex.s. c 43 § 33.]

Chapter 51.52 APPEALS

Sections

- 51.52.050 Copy of department action to be served—Reconsideration or appeal.
- 51.52.095 Conference for disposal of matters involved in appeal.
- 51.52.100 Proceedings before board—Contempt.
- 51.52.104 Industrial appeals judge—Recommended decision and order—Petition for review—Finality of order not subject to petition for review.
- 51.52.106 Review of decision and order by board.
- 51.52.110 Court appeal—Taking the appeal.
- 51.52.120 Attorney's fee before department or board—Unlawful attorney's fees.
- 51.52.130 Attorney and witness fees in court appeal.

51.52.050 Copy of department action to be served—Reconsideration or appeal. Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Nothing in this section shall be construed to permit an appeal to the board from a notice of assessment issued pursuant to RCW 51.48.120. [1982 c 109 § 4; 1977 ex.s. c 350 § 75; 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.]

51.52.095 Conference for disposal of matters involved in appeal. The board, upon request of the worker, beneficiary, or employer, or upon its own motion, may direct all parties interested in an appeal, together with their attorneys, if any, to appear before it, a member of the board, or an authorized industrial appeals judge, for a conference for the purpose of determining the feasibility of settlement, the simplification of issues of law and fact, the necessity of amendments to the notice of appeal or other pleadings, the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, the limitation of the number of expert witnesses, and such other matters as may aid in the disposition of the appeal. Such conference may be held prior to the hearing, or it may be held during the hearing, at the discretion of the board member or industrial appeals judge conducting the same, in which case the hearing will be recessed for such conference. Following the conference, the board member or industrial appeals judge conducting the same, shall state on the record the results of such conference, and the parties present or their representatives shall state their concurrence on the record. Such agreement as stated on the record shall control the subsequent course of the proceedings, unless modified at a subsequent hearing to prevent manifest injustice. If agreement concerning final disposition of the appeal is reached by the parties present at the conference, or by the employer and worker or beneficiary, the board may enter a final decision and order in accordance therewith, providing the board finds such agreement is in conformity with the law and the facts. [1982 c 109 § 7; 1977

ex.s. c 350 § 78; 1963 c 148 § 3; 1963 c 6 § 1; 1961 c 23 § 51.52.095. Prior: 1951 c 225 § 10.]

51.52.100 Proceedings before board—Contempt. Hearings shall be held in the county of the residence of the worker or beneficiary, or in the county where the injury occurred, at a place designated by the board. Such hearing shall be de novo and summary, but no witness' testimony shall be received unless he or she shall first have been sworn to testify the truth, the whole truth and nothing but the truth in the matter being heard, or unless his or her testimony shall have been taken by deposition according to the statutes and rules relating to superior courts of this state. The department shall be entitled to appear in all proceedings before the board and introduce testimony in support of its order. The board shall cause all oral testimony to be stenographically reported and thereafter transcribed, and when transcribed, the same, with all depositions, shall be filed in, and remain a part of, the record on the appeal. Such hearings on appeal to the board may be conducted by one or more of its members, or a duly authorized industrial appeals judge, and depositions may be taken by a person duly commissioned for the purpose by the board.

Members of the board, its duly authorized industrial appeals judges, and all persons duly commissioned by it for the purpose of taking depositions, shall have power to administer oaths; to preserve and enforce order during such hearings; to issue subpoenas for, and to compel the attendance and testimony of, witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths, and it shall be their duty so to do to examine witnesses; and to do all things conformable to law which may be necessary to enable them, or any of them, effectively to discharge the duties of his or her office.

If any person in proceedings before the board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered so to do, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath as a witness, or after having the oath refuses to be examined according to law, the board or any member or duly authorized industrial appeals judge may certify the facts to the superior court having jurisdiction in the place in which said board or member or industrial appeals judge is sitting; the court shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the proceedings, or in the presence, of the court. [1982 c 109 § 8; 1977 ex.s. c 350 § 79; 1963 c 148 § 4; 1961 c 23 § 51.52.100. Prior: 1957 c 70 § 60; 1951 c 225 § 11; 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.]

51.52.104 Industrial appeals judge—Recommended decision and order—Petition for review—Finality of order not subject to petition for review. After all evidence has been presented at hearings conducted by an industrial appeals judge, who shall be an active member of the Washington state bar association, the industrial appeals judge shall enter a proposed or recommended decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The industrial appeals judge shall file the original of the proposed decision and order, signed by him, with the board, and copies thereof shall be mailed by the board to each party to the appeal and to his attorney of record. Within twenty days, or such further period as the board may allow on written application of a party, filed within said twenty days from the date of communication of the proposed decision and order to the parties or their attorneys of record, any party may file with the board a written petition for review of the same. For purposes of determining whether a petition for review has been timely filed, the date such petition for review is received at the board's offices in Olympia shall be the date upon which filing is perfected. Such petition for review shall set forth in detail the grounds therefor and the party or parties filing the same shall be deemed to have waived all objections or irregularities not specifically set forth therein.

In the event no petition for review is filed as provided herein by any party, the proposed decision and order of the industrial appeals judge shall be adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts. If an order adopting the proposed decision and order is not formally signed by the board on the day following the expiration of the time period for filing a petition for review of the proposed decision and order, said proposed decision and order shall be deemed adopted by the board and become the decision and order of the board, and no appeal may be taken therefrom to the courts. [1982 c 109 § 5; 1971 ex.s. c 289 § 22; 1963 c 148 § 6.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

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 industrial appeals judge, 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. [1982 c 109 § 9; 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.

51.52.110 Court appeal—Taking the appeal. Within thirty days after a decision of the board to deny the petition or petitions for review upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the final decision and order of the board upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the appeal is denied as herein provided, such worker, beneficiary, employer or other person aggrieved by the decision and order of the board may appeal to the superior court. If such worker, beneficiary, employer, or other person fails to file with the superior court its appeal as provided in this section within said thirty days, the decision of the board to deny the petition or petitions for review or the final decision and order of the board shall become final.

In cases involving injured workers, an appeal to the superior court shall be to the superior court of the county of residence of the worker or beneficiary, as shown by the department's records, or to the superior court of the county wherein the injury occurred or where neither the county of residence nor the county wherein the injury occurred are in the state of Washington then the appeal may be directed to the superior court for Thurston county. In all other cases the appeal shall be to the superior court of Thurston county. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the director and on the board. If the case is one involving a self-insurer, a copy of the notice of appeal shall also be served by mail, or personally, on such self-insurer. The department shall, in all cases not involving a self-insurer, within twenty days after the receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. If the case is one involving a self-insurer, such

self-insurer shall, within twenty days after receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed to be at issue. In such cases the department may appear and take part in any proceedings. The board shall serve upon the appealing party, the director, the self-insurer if the case involves a self-insurer, and any other party appearing at the board's proceeding, and file with the clerk of the court before trial, a certified copy of the board's official record which shall include the notice of appeal and other pleadings, testimony and exhibits, and the board's decision and order, which shall become the record in such case. No bond shall be required on appeals to the superior court or on appeals to the supreme court or the court of appeals, except that an appeal by the employer from a decision and order of the board under RCW 51.48.070, shall be ineffectual unless, within five days following the service of notice thereof, a bond, with surety satisfactory to the court, shall be filed, conditioned to perform the judgment of the court. Except in the case last named an appeal shall not be a stay: *Provided, however,* That whenever the board has made any decision and order reversing an order of the supervisor of industrial insurance on questions of law or mandatory administrative actions of the director, the department shall have the right of appeal to the superior court. [1982 c 109 § 6; 1977 ex.s. c 350 § 80; 1973 c 40 § 1. Prior: 1972 ex.s. c 50 § 1; 1972 ex.s. c 43 § 36; 1971 ex.s. c 289 § 24; 1971 c 81 § 122; 1961 c 23 § 51.52.110; prior: 1957 c 70 § 61; 1951 c 225 § 14; 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.]

Rules of court: Cf. Title 8 RAP, RAP 18.22.

51.52.120 Attorney's fee before department or board—Unlawful attorney's fees. (1) It shall be unlawful for an attorney engaged in the representation of any worker or beneficiary to charge for services in the department any fee in excess of a reasonable fee, of not more than thirty percent of the increase in the award secured by the attorney's services. Such reasonable fee shall be fixed by the director for services performed by an attorney for such worker or beneficiary, prior to the notice of appeal to the board if written application therefor is made by the attorney, worker, or beneficiary.

(2) If, on appeal to the board, the order, decision, or award of the department is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained by the board, the board shall fix a reasonable fee for the services of his or her attorney in proceedings before the board if written application therefor is made by the attorney, worker, or beneficiary. In fixing the amount of such attorney's fee, the board shall take into consideration the fee allowed, if any, by

the director, for services before the department, and the board may review the fee fixed by said director. Any attorney's fee set by the department or the board may be reviewed by the superior court upon application of such attorney, worker, or beneficiary. The department or self-insured employer, as the case may be, shall be served a copy of the application and shall be entitled to appear and take part in the proceedings. Where the board, pursuant to this section, fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee for services before the board in excess of that fee fixed by the board. Any person who violates any provision of this section shall be guilty of a misdemeanor. [1982 c 63 § 22; 1977 ex.s. c 350 § 81; 1965 ex.s. c 63 § 1; 1961 c 23 § 51.52.120. Prior: 1951 c 225 § 16; prior: 1947 c 246 § 3; Rem. Supp. 1947 § 7679-3.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.41.090.

51.52.130 Attorney and witness fees in court appeal.

If, on appeal to the court from the decision and order of the board, said decision and order is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained by the court, a reasonable fee for the services of the worker's or beneficiary's attorney shall be fixed by the court. In fixing the fee the court shall take into consideration the fee or fees, if any, fixed by the director and the board for such attorney's services before the department and the board. If the court finds that the fee fixed by the director or by the board is inadequate for services performed before the department or board, or if the director or the board has fixed no fee for such services, then the court shall fix a fee for the attorney's services before the department, or the board, as the case may be, in addition to the fee fixed for the services in the court. If the decision and order of the board is reversed or modified and if the accident fund is affected by the litigation then the attorney's fee fixed by the court for services before the court only, and the fees of medical and other witnesses and the costs shall be payable out of the administrative fund of the department. In the case of self-insured employers, if the decision and order of the board is reversed or modified resulting in additional benefits by the litigation that would be paid from the accident fund if the employer were not self-insured, then the attorney fees fixed by the court for services before the court, only, and the fees of medical and other witnesses and the costs shall be payable directly by the self-insured employer. [1982 c 63 § 23; 1977 ex.s. c 350 § 82; 1961 c 23 § 51.52.130. Prior: 1957 c 70 § 63; 1951 c 225 § 17; 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 dates—Implementation—1982 c 63: See note following RCW 51.41.090.

Title 53 PORT DISTRICTS

Chapters

- 53.08 Powers.**
53.12 Commissioners—Elections.
53.36 Finances.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 53.08 POWERS

Sections

- 53.08.091 Sale of property—Contract sales—Terms and conditions.
 53.08.120 Contracts for labor and material—Small works roster.
 53.08.135 Construction projects over forty thousand dollars—Contracting out.

53.08.091 Sale of property—Contract sales—Terms and conditions. Except in cases where the full purchase price is paid at the time of the purchase, every sale of real property or personal property under authority of RCW 53.08.090 or RCW 53.25.110 shall be subject to the following terms and conditions:

(1) The purchaser shall enter into a contract with the district in which the purchaser shall covenant that he will make the payments of principal and interest when due, and that he will pay all taxes and assessments on such property. Upon failure to make payments of principal, interest, assessments or taxes when due all rights of the purchaser under said contract may, at the election of the district, after notice to said purchaser, be declared to be forfeited. When the rights of the purchaser are declared forfeited, the district shall be released from all obligation to convey land covered by the contract, and in the case of personal property, the district shall have all rights granted to a secured party under chapter 62A.9 RCW;

(2) The district may, as it deems advisable, extend the time for payment of principal and interest due or to become due;

(3) The district shall notify the purchaser in each instance when payment is overdue, and that the purchaser is liable to forfeiture if payment is not made within thirty days from the time the same became due, unless the time be extended by the district;

(4) Not less than four percent of the total purchase price shall be paid on the date of execution of the contract for sale and not less than four percent shall be paid annually thereafter until the full purchase price has been paid, but any purchaser may make full payment at any time. All unpaid deferred payments shall draw interest at a rate not less than six percent per annum.

Nothing in this section shall be deemed to supersede other provisions of law more specifically governing sales of port district property. It is the purpose of this section to provide additional authority and procedures for sale

of port district property no longer needed for port purposes. [1982 c 75 § 1; 1969 ex.s. c 11 § 1; 1965 c 23 § 2.]

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 forty 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 forty 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 not less than five separate appropriate contractors shall be invited to submit proposals on any individual contract: *Provided further*, 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 forty 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. [1982 c 92 § 1; 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.]

53.08.135 Construction projects over forty thousand dollars—Contracting out. Port districts shall determine if any construction project over forty thousand dollars can be accomplished less expensively by contracting out. If contracting out is less expensive, the port district may contract out such project. [1982 c 92 § 2.]

Chapter 53.12

COMMISSIONERS—ELECTIONS

Sections

- 53.12.120 Increasing number of commissioners to five—Proposition—Numbered positions.

Redistricting by local governments and municipal corporations—Census information for—Plan, prepared when, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous: RCW 29.70.100.

53.12.120 Increasing number of commissioners to five—Proposition—Numbered positions. When the population of a port district reaches five hundred thousand, in accordance with the latest United States regular or special census or with the official state population estimate, there shall be submitted to the voters of the district, at the next general election or at a special port election called for that purpose, the proposition of increasing the number of commissioners to five. At any general election thereafter, the same proposition may be submitted by resolution of the port commissioners, by filing a certified copy of the resolution with the county auditor at least four months prior to the general election. If the proposition is adopted, the commission in that port district shall consist of five commissioners in positions numbered as specified in RCW 53.12.035, the additional commissioners to take office five days after the election. [1982 c 219 § 1; 1965 c 51 § 7; 1959 c 175 § 3; 1959 c 17 § 10. Prior: 1953 c 198 § 1; 1913 c 62 § 2, part; 1911 c 92 § 3, part; RRS § 9690, part.]

**Chapter 53.36
FINANCES**

Sections

53.36.100 Levy for industrial development district purposes—Notice—Petition—Election.

53.36.100 Levy for industrial development district purposes—Notice—Petition—Election. A port district having adopted a comprehensive scheme of harbor improvements and industrial developments may thereafter raise revenue, for twelve years only, in addition to all other revenues now authorized by law, by an annual levy not to exceed forty-five cents per thousand dollars of assessed value against the assessed valuation of the taxable property in such port district. Said levy shall be used exclusively for the exercise of the powers granted to port districts under chapter 53.25 RCW except as provided in RCW 53.36.110. The levy of such taxes is herein authorized notwithstanding the provisions of RCW 84.52.050 and 84.52.043. The revenues derived from levies made under RCW 53.36.100 and 53.36.110 not expended in the year in which the levies are made may be paid into a fund for future use in carrying out the powers granted under chapter 53.25 RCW, which fund may be accumulated and carried over from year to year, with the right to continue to levy the taxes provided for in RCW 53.36.100 and 53.36.110 for the purposes herein authorized.

If a port district intends to levy a tax under this section for one or more years after the first six years authorized in this section, the port commission shall publish notice of this intention, in one or more newspapers of general circulation within the district, by June 1 of the year in which the first levy of the seventh through

twelfth year period is to be made. If within ninety days of the date of publication a petition is filed with the county auditor containing the signatures of eight percent of the number of voters registered and voting in the port district for the office of the governor at the last preceding gubernatorial election, the county auditor shall canvass the signatures in the same manner as prescribed in RCW 29.79.200 and certify their sufficiency to the port commission within two weeks. The proposition to make these levies in the seventh through twelfth year period shall be submitted to the voters of the port district at a special election, called for this purpose, no later than the date on which a primary election would be held under RCW 29.13.070. The levies may be made in the seventh through twelfth year period only if approved by a majority of the voters of the port district voting on the proposition. [1982 1st ex.s. c 3 § 1; 1979 c 76 § 1; 1973 1st ex.s. c 195 § 58; 1957 c 265 § 1.]

Effective date—1982 1st ex.s. c 3: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect April 1, 1982." [1982 1st ex.s. c 3 § 3.] This applies to the enactment of RCW 84.55.045 and the 1982 1st ex. sess. amendment of RCW 53.36.100.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Levy by port district under RCW 53.36.100—Application of chapter 84.55 RCW: RCW 84.55.045.

Title 54

PUBLIC UTILITY DISTRICTS

Chapters

54.28 Privilege taxes.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 54.28

PRIVILEGE TAXES

Sections

54.28.020 Tax imposed—Rates—Temporary additional tax imposed.
 54.28.025 Tax imposed with respect to thermal electric generating facilities—Rate—Temporary additional tax imposed.
 54.28.040 Tax computed—Payment—Disposition.
 54.28.050 Distribution of tax.
 54.28.055 Distribution of tax proceeds from thermal electric generating facilities.

54.28.020 Tax imposed—Rates—Temporary additional tax imposed. (1) There is hereby levied and there shall be collected from every district a tax for the act or privilege of engaging within this state in the business of operating works, plants or facilities for the generation, distribution and sale of electric energy. With respect to each such district, except with respect to thermal electric generating facilities taxed under RCW 54.28.025, such tax shall be the sum of the following amounts: (a) Two percent of the gross revenues derived

by the district from the sale of all electric energy which it distributes to consumers who are served by a distribution system owned by the district; (b) five percent of the first four mills per kilowatt-hour of wholesale value of self-generated energy distributed to consumers by a district; (c) five percent of the first four mills per kilowatt-hour of revenue obtained by the district from the sale of self-generated energy for resale.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section for April, 1982, through June, 1983. [1982 1st ex.s. c 35 § 18; 1977 ex.s. c 366 § 2; 1959 c 274 § 2; 1957 c 278 § 2. Prior: 1949 c 227 § 1(a); 1947 c 259 § 1(a); 1941 c 245 § 2(a); Rem. Supp. 1949 § 11616-2(a).]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Severability—1947 c 259: "If any section, subsection, clause, sentence or phrase of this act be for any reason adjudged unconstitutional, such adjudication shall not invalidate the remaining portions of this act, and the legislature hereby declares that it would have enacted this act notwithstanding the omission of the portion so adjudicated invalid." [1947 c 259 § 2.]

54.28.025 Tax imposed with respect to thermal electric generating facilities—Rate—Temporary additional tax imposed. (1) There is hereby levied and there shall be collected from every district operating a thermal electric generating facility, as defined in RCW 54.28-.010 as now or hereafter amended, having a design capacity of two hundred fifty thousand kilowatts or more, located on a federal reservation, which is placed in operation after September 21, 1977, a tax for the act or privilege of engaging within the state in the business of generating electricity for use or sale, equal to one and one-half percent of wholesale value of energy produced for use or sale, except energy used in the operation of component parts of the power plant and associated transmission facilities under control of the person operating the power plant.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section for April, 1982, through June, 1983. [1982 1st ex.s. c 35 § 19; 1977 ex.s. c 366 § 6.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

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 of the revenues received under RCW 54.28.020(1) and 54.28.025(1) and all revenues received under RCW 54.28.020(2) and 54.28.025(2) 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 transmittal to the department of revenue. [1982 1st ex.s. c 35 § 20; 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).]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

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 RCW 54.28.020(1), the department of revenue shall instruct the state treasurer, after placing thirty-seven and six-tenths percent in the state general fund to be dedicated for the benefit of the public schools, to distribute the balance collected under RCW 54.28.020(1)(a) 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(1) (b) and (c) 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.

The provisions of this section shall not apply to the distribution of taxes collected under RCW 54.28.025. [1982 1st ex.s. c 35 § 21; 1980 c 154 § 8; 1977 ex.s. c 366 § 4; 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).]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82-.45 RCW digest.

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.]

54.28.055 Distribution of tax proceeds from thermal electric generating facilities. (1) After computing the tax

imposed by RCW 54.28.025(1), the department of revenue shall instruct the state treasurer to distribute the amount collected as follows:

(a) Fifty percent to the state general fund for the support of schools; and

(b) Twenty-two percent to the counties, twenty-three percent to the cities, three percent to the fire protection districts, and two percent to the library districts.

(2) Each county, city, fire protection district and library district shall receive a percentage of the amount for distribution to counties, cities, fire protection districts and library districts, respectively, in the proportion that the population of such district residing within the impacted area bears to the total population of all such districts residing within the impacted area.

(3) If any distribution pursuant to subsection (1)(b) of this section cannot be made, then that share shall be prorated among the state and remaining local districts.

(4) All distributions directed by this section to be made on the basis of population shall be calculated in accordance with data to be provided by the office of financial management. [1982 1st ex.s. c 35 § 22; 1979 c 151 § 165; 1977 ex.s. c 366 § 7.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Title 56 SEWER DISTRICTS

Chapters

- 56.02** General provisions.
- 56.08** Powers—Comprehensive plan.
- 56.24** Annexation of territory.
- 56.36** Merger of water districts into sewer district—Merger of sewer districts into water district.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 56.02 GENERAL PROVISIONS

Sections

- 56.02.055 Districts comprising territory in more than one county—Delegation of duties—Exceptions.
- 56.02.120 Ratification of actions for the formation, annexation, consolidation, or merger of sewer districts prior to July 10, 1982.

56.02.055 Districts comprising territory in more than one county—Delegation of duties—Exceptions. Whenever the boundaries or proposed boundaries of a sewer district include or are proposed to include by means of formation, annexation, consolidation, or merger (including merger with a water district) territory in more than one county, all duties delegated by Title 56 RCW to officers of the county in which the district is located shall be delegated to the officers of the county in

which the largest land area of the district is located, except that elections shall be conducted pursuant to RCW 56.02.050, actions subject to review and approval under RCW 56.02.060 and 56.02.070 shall be reviewed and approved by only the officers or boards in the county in which such actions are proposed to occur, verification of electors' signatures shall be conducted by the county election officer of the county in which such signators reside, and comprehensive plan review and approval or rejection by the respective county legislative authorities under RCW 56.08.020 shall be limited to that part of such plans within the respective counties. [1982 1st ex.s. c 17 § 1.]

56.02.120 Ratification of actions for the formation, annexation, consolidation, or merger of sewer districts prior to July 10, 1982. All actions taken in regard to the formation, annexation, consolidation, or merger of sewer districts prior to July 10, 1982, but consistent with this title, as amended, are hereby approved and ratified and shall be legal for all purposes. [1982 1st ex.s. c 17 § 2.]

Chapter 56.08 POWERS—COMPREHENSIVE PLAN

Sections

- 56.08.020 General comprehensive plan—Approval of engineer, director of health, and city, town, or county—Amendments.
- 56.08.075 Powers as to street lighting systems—Establishment.
- 56.08.180 Excess sewer capacity not grounds for zoning decision challenge.

56.08.020 General comprehensive plan—Approval of engineer, director of health, and city, town, or county—Amendments. The sewer commissioners before ordering any improvements hereunder or submitting to vote any proposition for incurring indebtedness shall adopt a general comprehensive plan for a system of sewers for the district. They shall investigate all portions and sections of the district and select a general comprehensive plan for a system of sewers for the district suitable and adequate for present and reasonably foreseeable future needs thereof. The general comprehensive plan shall provide for treatment plants and other methods for the disposal of sewage and industrial and other liquid wastes now produced or which may reasonably be expected to be produced within the district and shall, for such portions of the district as may then reasonably be served, provide for the acquisition or construction and installation of laterals, trunk sewers, intercepting sewers, syphons, pumping stations, or other sewage collection facilities. The general comprehensive plan shall provide the method of distributing the cost and expense of the sewer system provided therein against the district and against utility local improvement districts within the district, including any utility local improvement district lying wholly or partially within any other political subdivision included in the district; and provide whether the whole or some part of the cost and expenses shall be paid from sewer revenue bonds. The

commissioners may employ such engineering and legal services as they deem necessary in carrying out the purposes hereof. The general comprehensive plan shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty-one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health. The general comprehensive plan shall be approved, conditionally approved, or rejected by the director of health within sixty days of the plan's receipt and by the designated engineer within sixty days of the plan's receipt.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the sewer district lies. The general comprehensive plan shall be approved, conditionally approved, or rejected by each of these county legislative authorities pursuant to the criteria in RCW 56.02.060 for approving the formation, reorganization, annexation, consolidation, or merger of sewer districts, and the resolution, ordinance, or motion of the legislative body which rejects the comprehensive plan or a part thereof shall specifically state in what particular the comprehensive plan or part thereof rejected fails to meet these criteria. The legislative body may not impose requirements restricting the maximum size of the sewer system facilities provided for in the comprehensive plan: *Provided*, That nothing in this chapter shall preclude a county from rejecting a proposed plan because it is in conflict with the criteria in RCW 56.02.060. Each general comprehensive plan shall be deemed approved if the county legislative authority fails to reject or conditionally approve the plan within ninety days of submission to the county legislative authority or within thirty days of a hearing on the plan when the hearing is held within ninety days of the plan's submission to the county legislative authority: *Provided*, That the sewer commissioners and the county legislative authority may mutually agree to an extension of the deadlines in this section. If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authority of cities and towns before becoming effective. The general comprehensive plan shall be deemed approved by the city or town legislative authority if the city or town legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the city or town or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority.

Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan: *Provided*, That only if the amendment, alteration, or addition, affects a particular city or town, shall the amendment, alteration, or addition be subject to approval by such particular city or

town legislative authority. [1982 c 213 § 1; 1979 c 23 § 1; 1977 ex.s. c 300 § 1; 1971 ex.s. c 272 § 2; 1959 c 103 § 2; 1953 c 250 § 4; 1947 c 212 § 2; 1945 c 140 § 10; 1943 c 74 § 2; 1941 c 210 § 11; Rem. Supp. 1947 § 9425-20.]

Severability—1959 c 103: See note following RCW 56.08.010.

Additions and betterments to original comprehensive plan: RCW 56.16.030.

Construction of sewerage system for municipality: Chapter 35.67 RCW.

56.08.075 Powers as to street lighting systems—Establishment. (1) In addition to the powers given sewer districts by law, they also have power to acquire, construct, maintain, operate, and develop street lighting systems.

(2) To establish a street lighting system, the board of sewer commissioners shall adopt a resolution proposing a street lighting system and delineating the boundaries of the area to be served by the proposed street lighting system. The board shall conduct a public hearing on the resolution to create a street lighting system. Notice of the hearing shall be published at least once each week for two consecutive weeks in one or more newspapers of general circulation in the area to be served by the proposed street lighting system. Following the hearing, the board may by resolution establish the street lighting system.

(3) A street lighting system shall not be established if, within ninety days following the decision of the board, a petition opposing the street lighting system is filed with the board and contains the signatures of at least forty percent of the voters registered in the area to be served by the proposed system.

(4) The sewer district has the same powers of collection for delinquent street lighting charges as the sewer district has for collection of delinquent sewer service charges.

(5) Any street lighting system established by a sewer district prior to March 31, 1982, is declared to be legal and valid. [1982 c 105 § 2.]

56.08.180 Excess sewer capacity not grounds for zoning decision challenge. The construction of or existence of sewer capacity in excess of the needs of the density allowed by zoning shall not be grounds for any legal challenge to any zoning decision by the county. [1982 c 213 § 3.]

Chapter 56.24

ANNEXATION OF TERRITORY

Sections

56.24.070	Annexation authorized—Petition—Filing—Certificate of sufficiency—Notice of hearing.
56.24.180	Annexation of certain unincorporated territory—Authorized—Hearing.
56.24.190	Annexation of certain unincorporated territory—Opportunity to be heard—Effective date of annexation resolution—Notice—Referendum.

56.24.200 Annexation of certain unincorporated territory—
 Referendum authorized—Petition—Election—
 Effective date of annexation.

56.24.070 Annexation authorized—Petition—Filing—Certificate of sufficiency—Notice of hearing. The territory adjoining or in close proximity to a district may be annexed to and become a part of the district in the following manner: Twenty percent of the number of registered voters residing in the territory proposed to be annexed who voted at the last election may file a petition with the district commissioners and cause the question to be submitted to the electors of the territory whether such territory will be annexed and become a part of the district. If the commissioners concur in the petition, they shall file it with the county election officer, who shall, within ten days, examine the signatures thereon and certify to the sufficiency or insufficiency thereof; and for such purpose the county election officer shall have access to all registration books in the possession of the officers of any city or town in the proposed district. If the petition contains a sufficient number of signatures, the election officer shall transmit it, together with a certificate of sufficiency attached thereto to the sewer commissioners of the district. If there are no electors residing in the territory to be annexed, the petition may be signed by such a number as appear of record to own at least a majority of the acreage in the territory, and the petition shall disclose the total number of acres of land in the territory and the names of all record owners of land therein. If the commissioners are satisfied as to the sufficiency of the petition and concur therein, they shall send it, together with their certificate of concurrence attached thereto to the county legislative authority.

The county legislative authority, upon receipt of a petition certified to contain a sufficient number of signatures of electors, or upon receipt of a petition signed by such a number as own at least a majority of the acreage, together with a certificate of concurrence signed by the sewer commissioners, at a regular or special meeting shall cause to be published for at least two weeks in two successive issues of some weekly newspaper in general circulation throughout the territory proposed to be annexed a notice that the petition has been filed, stating the time of the meeting at which it shall be presented, and setting forth the boundaries of the territory proposed to be annexed. [1982 1st ex.s. c 17 § 3; 1967 ex.s. c 11 § 1.]

56.24.180 Annexation of certain unincorporated territory—Authorized—Hearing. When there is, within a sewer district, unincorporated territory containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the sewer district, the board of commissioners may resolve to annex such territory to the sewer district. The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least

once a week for two weeks prior to the date of the hearing, in one or more newspapers of general circulation within the sewer district and one or more newspapers of general circulation within the area to be annexed. [1982 c 146 § 1.]

56.24.190 Annexation of certain unincorporated territory—Opportunity to be heard—Effective date of annexation resolution—Notice—Referendum. On the date set for hearing under RCW 56.24.180, residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The board of commissioners may provide by resolution for annexation of the territory described in the resolution, but the effective date of the resolution shall be not less than forty-five days after the passage thereof. The board of commissioners shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the resolution, in one or more newspapers of general circulation within the sewer district and in one or more newspapers of general circulation within the area to be annexed. Upon the filing of a timely and sufficient referendum petition under RCW 56.24.200, a referendum election shall be held under RCW 56.24.200, and the annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto. After the expiration of the forty-fifth day from, but excluding the date of passage of the annexation resolution, if no timely and sufficient referendum petition has been filed, under RCW 56.24.200, the area annexed shall become a part of the sewer district upon the date fixed in the resolution of annexation. [1982 c 146 § 2.]

56.24.200 Annexation of certain unincorporated territory—Referendum authorized—Petition—Election—Effective date of annexation. Such annexation resolution under RCW 56.24.190 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the board of commissioners, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of such election shall be given under RCW 56.24.080 and the election shall be conducted under RCW 56.24.090. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation resolution, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the sewer district upon the date fixed in the resolution of

annexation upon transmitting the resolution to the county legislative authority. [1982 c 146 § 3.]

Chapter 56.36

MERGER OF WATER DISTRICTS INTO SEWER DISTRICT—MERGER OF SEWER DISTRICTS INTO WATER DISTRICT

Sections

56.36.010	Merger authorized.
56.36.040	Election—Results—Effect—Commissioners—Terms.

56.36.010 Merger authorized. Any water district, acting alone or in conjunction with any other water district or districts similarly situated as hereafter described, the territory of which lies wholly or partly within, or which is adjoining or in proximity to a sewer district, may merge into the sewer district, and the sewer district will survive under its original name. The term "in proximity to" as used herein shall mean within one mile of each other, measured in a straight line between the closest points of approach of the territorial boundaries of the respective districts. [1982 1st ex.s. c 17 § 4; 1969 ex.s. c 148 § 1.]

Severability—1969 ex.s. c 148: "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." [1969 ex.s. c 148 § 9.] This applies to the enactment of this chapter and the 1969 ex.s. c 148 amendments to RCW 56.12.010 and 57.12.010.

56.36.040 Election—Results—Effect—Commissioners—Terms. If at such election a majority of the voters in the water district or all or either of the water districts involved, shall vote in favor of the merger, the county election canvassing board shall so declare in its canvass, and the return of the election shall be made within ten days after the date of such election. Upon completion of the return the merger shall be effective as to the sewer district and each water district in which the majority of voters voted in favor of the merger, and each such water district shall cease to exist as a separate entity and the area within such water district shall become a part of the sewer district. The water commissioners of any water district so merged shall hold office as commissioners of the sewer district into which the water district was merged until their respective terms of office expire or until they resign from office if the resignation is before the expiration of their terms of office. At the district election immediately preceding the time when the total number of remaining sewer commissioners is reduced to two through expiration of terms of office or resignations, one sewer commissioner shall be elected for a four year term of office. At the next district election, one sewer commissioner shall be elected for a four year term of office, and one shall be elected for a six year term of office. Thereafter, each sewer

commissioner shall be elected for a six-year term of office in the manner provided in RCW 56.12.020 and 56.12.030 for elections in an existing district. [1982 c 104 § 1; 1981 c 45 § 6; 1969 ex.s. c 148 § 4.]

Legislative declaration—"District" defined—Severability—1981 c 45: See notes following RCW 56.36.060.

Severability—1969 ex.s. c 148: See note following RCW 56.36.010.

Title 57

WATER DISTRICTS

Chapters

- 57.02** General provisions.
- 57.04** Formation and dissolution.
- 57.08** Powers.
- 57.12** Officers and elections.
- 57.16** Comprehensive plan—Local improvement districts.
- 57.20** Finances.
- 57.24** Annexation of territory.
- 57.28** Withdrawal of territory.
- 57.32** Consolidation of districts.
- 57.36** Merger of districts.
- 57.40** Merger of water districts into sewer districts—Merger of sewer districts into water districts.
- 57.90** Disincorporation of water and other districts in class A or AA counties.

Chapter 57.02

GENERAL PROVISIONS

Sections

57.02.010	Petition signatures of property owners—Rules governing.
57.02.050	Districts comprising territory in more than one county—Delegation of duties—Exceptions.
57.02.060	Elections—Declarations of candidacy.
57.02.070	Ratification of actions for the formation, annexation, consolidation, or merger of water districts prior to July 10, 1982.

57.02.010 Petition signatures of property owners—Rules governing. Wherever in Title 57 RCW petitions are required to be signed by the owners of property, the following rules shall govern the sufficiency thereof:

(1) The signature of a record owner, as determined by the records of the county auditor of the county in which the real property is located, shall be sufficient without the signature of his or her spouse.

(2) In the case of mortgaged property, the signature of the mortgagor shall be sufficient.

(3) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor of the county in which the real property is located, shall be deemed sufficient.

(4) Any officer of a corporation owning land in the district duly authorized to execute deeds or encumbrances on behalf of the corporation may sign on behalf of such corporation: *Provided*, That there shall be attached to the petition a certified excerpt from the bylaws showing such authority.

(5) If any property in the district stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator or guardian, as the case may be, shall be equivalent to the signature of the owner of the property. [1982 1st ex.s. c 17 § 8; 1953 c 251 § 24.]

57.02.050 Districts comprising territory in more than one county—Delegation of duties—Exceptions. Whenever the boundaries or proposed boundaries of a water district include or are proposed to include by means of formation, annexation, consolidation, or merger (including merger with a sewer district) territory in more than one county, all duties delegated by Title 57 RCW to officers of the county in which the district is located shall be delegated to the officers of the county in which the largest land area of the district is located, except that elections shall be conducted pursuant to RCW 57.02.060, as now existing or hereafter amended, actions subject to review and approval under RCW 57.02.040 and 56.02.070 shall be reviewed and approved only by the officers or boards in the county in which such actions are proposed to occur, verification of electors' signatures shall be conducted by the county election officer of the county in which such signators reside, and comprehensive plan review and approval or rejection by the respective county legislative authorities under RCW 57.16.010 shall be limited to that part of such plans within the respective counties. [1982 1st ex.s. c 17 § 5.]

57.02.060 Elections—Declarations of candidacy. (1) Jurisdiction of any election held on the same date as a general election shall rest with the county election officer of each county in which the district or proposed district is located. Election returns of such elections shall be canvassed by the canvassing board of each county and the official results certified to the county election officer of the county in which the largest land area of the district or proposed district is located. Such county election officer shall then combine the official results from each county into a single official result.

(2) Jurisdiction of any election held on a different date than a general election shall rest with the county election officer of the county in which the largest land area of the district or proposed district is located. Election returns of such elections shall be canvassed by the canvassing board of such county and certified to the county election officer of such county.

(3) Candidates for the office of commissioner shall file declarations of candidacy with the county election officer of the county in which the largest land area of the district is located.

(4) Elections referred to in this section shall be conducted as provided by this section and by the general

election laws not inconsistent with this section. [1982 1st ex.s. c 17 § 6.]

57.02.070 Ratification of actions for the formation, annexation, consolidation, or merger of water districts prior to July 10, 1982. All actions taken in regard to the formation, annexation, consolidation, or merger of water districts taken prior to July 10, 1982, but consistent with this title, as amended, are hereby approved and ratified and shall be legal for all purposes. [1982 1st ex.s. c 17 § 7.]

Chapter 57.04

FORMATION AND DISSOLUTION

Sections	
57.04.020	Districts authorized.
57.04.030	Petition procedure—Hearing—Boundaries.
57.04.050	Election—Notice—Ballots—Excess tax levy.

57.04.020 Districts authorized. Water districts for the acquirement, construction, maintenance, operation, development and regulation of a water supply system and providing for additions and betterments thereto are authorized to be established. Such districts may include within their boundaries one or more incorporated cities and towns. [1982 1st ex.s. c 17 § 9; 1929 c 114 § 1; RRS § 11579. Cf. 1913 c 161 § 1.]

57.04.030 Petition procedure—Hearing—Boundaries. For the purpose of formation of water districts, a petition shall be presented to the county legislative authority of each county in which the proposed water district is located, which petition shall set forth the object for the creation of the district, shall designate the boundaries thereof and set forth the further fact that establishment of the district will be conducive to the public health, convenience and welfare and will be of benefit to the property included in the district. The petition shall be signed by at least twenty-five percent of the qualified electors who shall be qualified electors on the date of filing the petition, residing within the district described in the petition. The petition shall be filed with the county election officer of each county in which the proposed district is located, who shall, within ten days examine and verify the signatures of the signers residing in the county; and for such purpose the county election official shall have access to all registration books in the possession of the officers of any incorporated city or town in such proposed district. No person having signed such a petition shall be allowed to withdraw his name from the petition after the filing of the petition with the county election officer. The petition shall be transmitted to the election officer of the county in which the largest land area of the district is located who shall certify to the sufficiency or insufficiency of the number of signatures. If the petition shall be found to contain a sufficient number of signatures, the county election officer shall then transmit the same, together with a certificate of sufficiency attached thereto to the county legislative authority of each county in which the proposed district is

located. Following receipt of a petition certified to contain a sufficient number of signatures, at a regular or special meeting the county legislative authority shall cause to be published for at least two weeks in successive issues of one or more weekly newspapers of general circulation in the proposed district, a notice that such a petition has been presented, stating the time of the meeting at which the petition shall be considered, and setting forth the boundaries of the proposed district. When such a petition is presented for hearing, each county legislative authority shall hear the petition or may adjourn the hearing from time to time not exceeding one month in all. Any person, firm, or corporation may appear before the county legislative authority and make objections to the establishment of the district or the proposed boundary lines thereof. Upon a final hearing each county legislative authority shall make such changes in the proposed boundary lines within the county as they deem to be proper and shall establish and define such boundaries and shall find whether the proposed water district will be conducive to the public health, welfare and convenience and be of special benefit to the land included within the boundaries of the proposed district. No lands which will not, in the judgment of the county legislative authority, be benefited by inclusion therein, shall be included within the boundaries of the district. No change shall be made by the county legislative authority in the boundary lines to include any territory outside of the boundaries described in the petition, except that the boundaries of any proposed district may be extended by the county legislative authority to include other lands in the county upon a petition signed by the owners of all of the land within the proposed extension. [1982 1st ex.s. c 17 § 10; 1931 c 72 § 3; 1929 c 114 § 2; RRS § 11580. Cf. 1915 c 24 § 1; 1913 c 161 § 2. Formerly RCW 57.04.030 and 57.04.040.]

57.04.050 Election—Notice—Ballots—Excess tax levy. Upon entry of the findings of the final hearing on the petition if one or more county legislative authorities find that the proposed district will be conducive to the public health, welfare, and convenience and be of special benefit to the land therein, they shall by resolution call a special election to be held not less than thirty days from the date of the resolution, and cause to be published a notice of the election for four successive weeks in a newspaper of general circulation in the proposed district, which notice shall state the hours during which the polls will be open, the boundaries of the district as finally adopted and the object of the election, and the notice shall also be posted for ten days in ten public places in the proposed district. In submitting the proposition to the voters, it shall be expressed on the ballots in the following terms:

- Water District YES
- Water District NO

giving the name of the district as provided in the petition.

At the same election a proposition shall be submitted to the voters, for their approval or rejection, authorizing

the water district, if formed, to levy at the earliest time permitted by law on all property located in the district a general tax for one year, in excess of the limitations provided by law, of not to exceed one dollar and twenty-five cents per thousand dollars of assessed value, for general preliminary expenses of the district, said proposition to be expressed on the ballots in the following terms:

- One year one dollar and twenty-five cents per thousand dollars of assessed value tax YES
- One year one dollar and twenty-five cents per thousand dollars of assessed value tax NO

Such proposition to be effective must be approved by a majority of at least three-fifths of the electors thereof voting on the proposition in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended. [1982 1st ex.s. c 17 § 11; 1973 1st ex.s. c 195 § 67; 1953 c 251 § 1; 1931 c 72 § 4; 1929 c 114 § 3; RRS § 11581. Cf. 1927 c 230 § 1; 1915 c 24 § 2; 1913 c 161 § 3.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

**Chapter 57.08
POWERS**

<p>Sections 57.08.060 57.08.080 57.08.090</p>	<p>Powers as to street lighting systems—Establishment. Rates and charges. Rates and charges—Foreclosure for delinquency— Costs—Fees—Cut off of service.</p>
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57.08.060 Powers as to street lighting systems—Establishment. (1) In addition to the powers given water districts by law, they shall also have power to acquire, construct, maintain, operate, and develop street lighting systems.

(2) To establish a street lighting system, the board of water commissioners shall adopt a resolution proposing a street lighting system and delineating the boundaries of the area to be served by the proposed street lighting system. The board shall conduct a public hearing on the resolution to create a street lighting system. Notice of the hearing shall be published at least once each week for two consecutive weeks in one or more newspapers of general circulation in the area to be served by the proposed street lighting system. Following the hearing, the board may by resolution establish the street lighting system.

(3) A street lighting system shall not be established if, within ninety days following the decision of the board, a petition opposing the street lighting system is filed with the board and contains the signatures of at least forty percent of the voters registered in the area to be served by the proposed system.

(4) The water district has the same powers of collection for delinquent street lighting charges as the water

district has for collection of delinquent water service charges.

(5) Any street lighting system established by a water district prior to March 31, 1982, is declared to be legal and valid. [1982 c 105 § 1; 1941 c 68 § 1; Rem. Supp. 1941 § 11604-12.]

57.08.080 Rates and charges. The commissioners shall enforce collection of the water connection charges and rates and charges for water supplied against property owners connecting with the system and/or receiving such water, such charges being deemed charges against the property served, by addition of penalties of not more than ten percent thereof in case of failure to pay the charges at times fixed by resolution. The commissioners may provide by resolution that where either water connection charges or rates and charges for water supplied are delinquent for any specified period of time, the district shall certify the delinquencies to the treasurer of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate of not more than eight percent per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes. [1982 1st ex.s. c 17 § 12; 1959 c 108 § 2.]

57.08.090 Rates and charges—Foreclosure for delinquency—Costs—Fees—Cut off of service. The district may, at any time after the connection charges or rates and charges for water supplied and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is located. The court may allow, in addition to the costs and disbursements provided by statute, such an attorney's fee as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an individual, or against all of those who are delinquent in one action, and the laws and rules of the court shall control as in other civil actions.

In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water supplied are delinquent for a period of sixty days. [1982 1st ex.s. c 17 § 13; 1977 ex.s. c 299 § 1; 1959 c 108 § 3.]

Chapter 57.12

OFFICERS AND ELECTIONS

Sections

57.12.030 Registration of voters—Conduct of elections—Formation election expense—Commissioners, terms.

Redistricting by local governments and municipal corporations—Census information for—Plan, prepared when, criteria for, hearing on, request for review of, certification, remand—Sanctions when review request frivolous: RCW 29.70.100.

57.12.030 Registration of voters—Conduct of elections—Formation election expense—Commissioners, terms. The general laws of the state of

Washington governing the registration of voters for a general or a special city election shall govern the registration of voters for elections held under this chapter. The manner of holding any general or special election for said water district shall be in accordance with the laws of this state. All elections in a water district shall be conducted under RCW 57.02.060. All expenses of elections for a water district shall be paid for out of the funds of the water district: *Provided*, That if the voters fail to approve the formation of a water district, the expenses of the formation election shall be paid by each county in which the proposed district is located, in proportion to the number of registered voters in the proposed district residing in each county.

Except as in this section otherwise provided, the term of office of each water district commissioner shall be six years, such term to be computed from the first day of January following the election, and one commissioner shall be elected at each biennial general election, as provided in RCW 29.13.020, for the term of six years and until his or her successor is elected and qualified and assumes office in accordance with RCW 29.04.170. All candidates shall be voted upon by the entire water district.

Three water district commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether such water district shall be formed. The commissioner elected in commissioner position number one shall hold office for the term of six years; the commissioner elected in commissioner position number two shall hold office for the term of four years; and the commissioner elected in commissioner position number three shall hold office for the term of two years: *Provided*, That the members of the first commission shall take office immediately upon their election and qualification. The terms of all commissioners first to be elected shall also include the time intervening between the date that the results of their election are declared in the canvass of returns thereof and the first day of January following the next general district election as provided in RCW 29.13.020. [1982 1st ex.s. c 17 § 14; 1979 ex.s. c 126 § 39; 1959 c 18 § 4. Prior: 1947 c 216 § 1; 1945 c 50 § 1; 1931 c 72 § 1; 1929 c 114 § 6; Rem. Supp. 1947 § 11584. Cf. 1913 c 161 § 7.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Special purpose districts, elected officials, immunity from civil liability: RCW 4.96.040.

Terms and compensation of county and district officers: State Constitution Art. 11 § 5 (Amendment 57).

Time of holding election for district officers: State Constitution Art. 6 § 8.

Chapter 57.16

COMPREHENSIVE PLAN—LOCAL IMPROVEMENT DISTRICTS

Sections

57.16.010 General comprehensive plan of improvements—Approval of engineer, director of health, and city, town, or county—Amendments.

57.16.050 Districts authorized.

- 57.16.060 Resolution or petition to form district—Procedure—Written protest—Improvement ordered—Divestment of power to order.
- 57.16.070 Hearing on assessment roll—Notice.
- 57.16.090 Review.
- 57.16.110 Segregation of assessment—Procedure—Fee—Charges.
- 57.16.140 Excess water supply capacity not grounds for zoning decision challenge.

57.16.010 General comprehensive plan of improvements—Approval of engineer, director of health, and city, town, or county—Amendments. The water district commissioners before ordering any improvements hereunder or submitting to vote any proposition for incurring any indebtedness shall adopt a general comprehensive plan of water supply for the district. They shall investigate the several portions and sections of the district for the purpose of determining the present and reasonably foreseeable future needs thereof; shall examine and investigate, determine and select a water supply or water supplies for such district suitable and adequate for present and reasonably foreseeable future needs thereof; and shall consider and determine a general system or plan for acquiring such water supply or water supplies; and the lands, waters and water rights and easements necessary therefor, and for retaining and storing any such waters, erecting dams, reservoirs, aqueducts and pipe lines to convey the same throughout such district. There may be included as part of the system the installation of fire hydrants at suitable places throughout the district, and the purchase and maintenance of necessary fire fighting equipment and apparatus, together with facilities for housing same. The water district commissioners shall determine a general comprehensive plan for distributing such water throughout such portion of the district as may then reasonably be served by means of subsidiary aqueducts and pipe lines, and the method of distributing the cost and expense thereof against such water district and against local improvement districts or utility local improvement districts within such water district for any lawful purpose, and including any such local improvement district or utility local improvement district lying wholly or partially within the limits of any city or town in such district, and shall determine whether the whole or part of the cost and expenses shall be paid from water revenue bonds. The commissioners may employ such engineering and legal service as in their discretion is necessary in carrying out their duties.

The general comprehensive plan shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty–one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health. The general comprehensive plan shall be approved, conditionally approved, or rejected by the director of health within sixty days of the plan's receipt and by the designated engineer within sixty days of the plan's receipt.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within

whose boundaries all or a portion of the water district lies. The general comprehensive plan shall be approved, conditionally approved, or rejected by each of these county legislative authorities pursuant to the criteria in RCW 57.02.040 for approving the formation, reorganization, annexation, consolidation, or merger of water districts, and the resolution, ordinance, or motion of the legislative body which rejects the comprehensive plan or a part thereof shall specifically state in what particular the comprehensive plan or part thereof rejected fails to meet these criteria. The legislative body may not impose requirements restricting the maximum size of the water supply facilities provided for in the comprehensive plan: *Provided*, That nothing in this chapter shall preclude a county from rejecting a proposed plan because it is in conflict with the criteria in RCW 57.02.040. Each general comprehensive plan shall be deemed approved if the county legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the county legislative authority or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority: *Provided*, That the water commissioners and the county legislative authority may mutually agree to an extension of the deadlines in this section. If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authority of cities and towns before becoming effective. The general comprehensive plan shall be deemed approved by the city or town legislative authority if the city or town legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the city or town or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority.

Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan: *Provided*, That only if the amendment, alteration, or addition affects a particular city or town, shall the amendment, alteration or addition be subject to approval by such particular city or town legislative authority. [1982 c 213 § 2; 1979 c 23 § 2; 1977 ex.s. c 299 § 3; 1959 c 108 § 6; 1959 c 18 § 6. Prior: 1939 c 128 § 2, part; 1937 c 177 § 1; 1929 c 114 § 10, part; RRS § 11588. Cf. 1913 c 161 § 10.]

57.16.050 Districts authorized. A district may establish local improvement districts within its territory; levy special assessments under the mode of annual installments extending over a period not exceeding twenty years, on all property specially benefited by a local improvement, on the basis of special benefits to pay in whole or in part the damage or costs of any improvements ordered in the district; and issue local improvement bonds in the improvement district to be repaid by the collection of local improvement assessments. The levying, collection and enforcement of such assessments

and issuance of bonds shall be as provided for the levying, collection, and enforcement of local improvement assessments and the issuance of local improvement bonds by cities of the first class insofar as consistent herewith. The duties devolving upon the city treasurer are hereby imposed upon the county treasurer of the county in which the real property is located for the purposes hereof. The mode of assessment shall be determined by the water commissioners by resolution. When in the petition or resolution for the establishment of a local improvement district, and in the comprehensive plan or amendment thereto or plan providing for additions and betterments to the original plan, previously adopted, it is provided that the assessments shall be for the sole purpose of payment into the revenue bond fund for the payment of revenue bonds, then the local improvement district shall be designated as a "utility local improvement district." No warrants or bonds shall be issued in a utility local improvement district, but the collection of interest and principal on all assessments in the utility local improvement district shall be paid into the revenue bond fund. [1982 1st ex.s. c 17 § 15; 1953 c 251 § 13; 1939 c 128 § 1; 1929 c 114 § 9; RRS § 11587. Cf. 1913 c 161 § 9.]

Local improvement bonds: Chapter 35.45 RCW.

57.16.060 Resolution or petition to form district—Procedure—Written protest—Improvement ordered—Divestment of power to order. Local improvement districts or utility local improvement districts to carry out the whole or any portion of the general comprehensive plan of improvements or plan providing for additions and betterments to the original general comprehensive plan previously adopted may be initiated either by resolution of the board of water commissioners or by petition signed by the owners according to the records of the office of the applicable county auditor of at least fifty-one percent of the area of the land within the limits of the local improvement district to be created.

In case the board of water commissioners shall desire to initiate the formation of a local improvement district or a utility 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 local improvement district or utility local improvement district, and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

In case any such local improvement district or utility local improvement district shall be initiated by petition, such petition shall set forth the nature and territorial extent of the proposed improvement requested to be ordered and the fact that the signers thereof are the owners according to the records of the applicable county auditor of at least fifty-one percent of the area of land

within the limits of the local improvement district or utility local improvement district to be created. Upon the filing of such petition the board shall determine whether the same shall be sufficient, and the board's determination thereof shall be conclusive upon all persons. No person shall withdraw his name from the petition after the same has been filed with the board of water commissioners. If the board shall find the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of said improvement, designating the number of the proposed local district and describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

Notice of the adoption of the resolution of intention, whether the resolution was adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of water commissioners. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed improvement district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer of the county in which the real property is located at the address shown thereon. Whenever such notices are mailed, the water commissioners shall maintain a list of such reputed property owners, which list shall be kept on file at a location within the water district and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. Said notices shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the date, time and place of the hearing before the board of water commissioners. In the case of improvements initiated by resolution, said notice shall also: (1) State that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of water commissioners before the time fixed for said public hearing; (2) state that if owners of at least forty percent of the area of land within the proposed district file written protests with the secretary of the board, the power of the water commissioners to proceed with the creation of the proposed district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the water district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the

cost and expense of such improvement to be borne by the particular lot, tract, parcel of land or other property.

Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in the plans for the proposed improvement as shall be deemed necessary: *Provided*, That the board may not change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice.

After said hearing the commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: *Provided*, That the jurisdiction of the commissioners to proceed with any improvement initiated by resolution shall be divested by protests filed with the secretary of the board prior to said public hearing signed by the owners, according to the records of the applicable county auditor, of at least forty percent of the area of land within the proposed local district.

If the commissioners find that the district should be formed, they shall by resolution order the improvement, provide the general funds of the water district to be applied thereto, adopt detailed plans of the local improvement district or utility local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the water district such eminent domain proceedings as may be necessary to entitle the district to proceed with the work. The board shall thereupon proceed with the work and file with the county treasurer of the county in which the real property is located its roll levying special assessments in the amount to be paid by special assessment against the property situated within the improvement district in proportion to the special benefits to be derived by the property therein from the improvement. [1982 1st ex.s. c 17 § 16; 1977 ex.s. c 299 § 7; 1965 ex.s. c 39 § 1; 1959 c 18 § 11. Prior: 1953 c 251 § 14; 1929 c 114 § 12, part; RRS § 11590, part. Cf. 1913 c 161 § 12, part.]

57.16.070 Hearing on assessment roll—Notice. Before approval of the roll a notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the local district, stating that the roll is on file and open to inspection in the office of the secretary, and fixing the time, not less than fifteen or more than thirty days from the date of the first publication of the notice, within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing will be held by the commissioners on the protests. Notice shall also be given by mailing, at least fifteen days before the hearing, a similar notice to the owners or reputed owners of the land in the local district as they appear on the

books of the treasurer of the county in which the real property is located. At the hearing, or any adjournment thereof, the commissioners may correct, change or modify the roll, or any part thereof, or set aside the roll and order a new assessment, and may then by resolution approve it. If an assessment is raised a new notice similar to the first shall be given, after which final approval of the roll may be made. When property has been entered originally upon the roll and the assessment thereon is not raised, no objection thereto shall be considered by the commissioners or by any court on appeal unless the objection is made in writing at, or prior, to the date fixed for the original hearing upon the roll. [1982 1st ex.s. c 17 § 17; 1959 c 18 § 12. Prior: 1953 c 251 § 15; 1929 c 114 § 12, part; RRS § 11590, part. Cf. 1913 c 161 § 12, part.]

57.16.090 Review. The decision of the water district commission upon any objections made within the time and in the manner herein prescribed, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the secretary of said water district commission and with the clerk of the superior court in the county in which the real property is situated within ten days after publication of a notice that the resolution confirming such assessment roll has been adopted, and such notice of appeal shall describe the property and set forth the objections of such appellant to such assessment; and within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of the court, a transcript consisting of the assessment roll and the appellant's objections thereto, together with the resolution confirming such assessment roll and the record of the water district commission with reference to the assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by the secretary of the water district commission certified by the secretary to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful to pay all costs to which the water district is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, the appellant shall give written notice to the secretary of such water district, that such transcript is filed. The notice shall state a time, not less than three days from the service thereof, when the appellant will call up the cause for hearing; and the superior court shall, at said time or at such further time as may be fixed by order of the

court, hear and determine such appeal without a jury; and such cause shall have preference over all civil causes pending in the court, except proceedings under an act relating to eminent domain and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, who shall modify and correct such assessment roll in accordance with such decision. An appeal shall lie to the supreme court or the court of appeals from the judgment of the superior court, as in other cases: *Provided, however*, That such appeal must be taken within fifteen days after the date of the entry of the judgment of such superior court; and the record and opening brief of the appellant in the cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice as provided in this title. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation of the parties concerned. The supreme court or the court of appeals on such appeal may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision. [1982 1st ex.s. c 17 § 18; 1971 c 81 § 126; 1965 ex.s. c 39 § 2; 1929 c 114 § 13; RRS § 11591. Cf. 1913 c 161 § 13.]

Rules of court: Cf. RAP 5.2, 18.22.

57.16.110 Segregation of assessment—Procedure—Fee—Charges. Whenever any land against which there has been levied any special assessment by any water district shall have been sold in part or subdivided, the board of water commissioners of such district shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the board of commissioners of the water district which levied the assessment. If the water commissioners determine that a segregation should be made, they shall by resolution order the treasurer of the county in which the real property is located to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the treasurer of the county in which the real property is located who shall proceed to make the segregation ordered

upon being tendered a fee of three dollars for each tract of land for which a segregation is to be made. In addition to such charge the board of water commissioners may require as a condition to the order of segregation that the person seeking it pay the district the reasonable engineering and clerical costs incident to making the segregation. [1982 1st ex.s. c 17 § 19; 1953 c 251 § 23.]

Segregation duties of county treasurer: RCW 36.29.160.

57.16.140 Excess water supply capacity not grounds for zoning decision challenge. The construction of or existence of water supply capacity in excess of the needs of the density allowed by zoning shall not be grounds for any legal challenge to any zoning decision by the county. [1982 c 213 § 4.]

Chapter 57.20 FINANCES

Sections

57.20.030 Local improvement guaranty fund.

57.20.030 Local improvement guaranty fund. Every water district in the state is hereby authorized to create a fund for the purpose of guaranteeing, to the extent of such fund, and in the manner hereinafter provided, the payment of all of its local improvement bonds issued, subsequent to June 9, 1937, to pay for any local improvement within its confines. Such fund shall be designated "Local Improvement Guaranty Fund, Water District No. _____," and shall be established by resolution of the board of water commissioners. For the purpose of maintaining such fund, every water district, after the establishment thereof, shall at all times set aside and pay into such a fund such proportion of the monthly gross revenues of the water supply system of such water district as the commissioners thereof may direct by resolution. This proportion may be varied from time to time as the commissioners deem expedient or necessary: *Provided, however*, That under the existence of the conditions set forth in subsections (1) and (2) next hereunder, then the proportion must be as therein specified, to wit:

(1) Whenever any bonds of any local improvement district have been guaranteed under *this act and the guaranty fund does not have a cash balance equal to twenty percent of all bonds originally guaranteed under *this act, (excluding issues which have been retired in full) then twenty percent of the gross monthly revenues derived from all water users in the territory included in said local improvement district (but not necessarily from users in other parts of the water district as a whole) shall be set aside and paid into the guaranty fund: *Provided, however*, That whenever, under the requirements of this subsection, said cash balance accumulates so that it is equal to twenty percent of all bonds guaranteed, or to the full amount of all bonds guaranteed, outstanding and unpaid (which amount might be less than twenty percent of the original total guaranteed), then no further moneys need be set aside and paid into said guaranty fund so long as said condition shall continue.

(2) Whenever any warrants issued against the guaranty fund, as hereinbelow provided, remain outstanding and uncalled for lack of funds for six months from date of issuance thereof; or whenever any coupons or bonds guaranteed under *this act have been matured for six months and have not been redeemed either in cash or by issuance and delivery of warrants upon the guaranty fund, then twenty percent of the gross monthly revenues (or such portion thereof as the commissioners of the water district determine will be sufficient to retire said warrants or redeem said coupons or bonds in the ensuing six months) derived from all water users in the water district shall be set aside and paid into the guaranty fund: *Provided, however,* That whenever under the requirements of this subsection all warrants, coupons, or bonds specified in this subsection above have been redeemed, no further income need be set aside and paid into said guaranty fund under the requirements of this subsection until and unless other warrants remain outstanding and unpaid for six months or other coupons or bonds default.

(3) For the purpose of complying with the requirements of setting aside and paying into the local improvement guaranty fund a proportion of the monthly gross revenues of the water supply system of any water district, as hereinabove provided, said water district shall bind and obligate itself to maintain and operate said system and further bind and obligate itself to establish, maintain and collect such rates for water as will produce gross revenues sufficient to maintain and operate said water supply system and to make necessary provision for the local improvement guaranty fund as specified by this section and RCW 57.20.080 and 57.20.090. And said water district shall alter its rates for water from time to time and shall vary the same in different portions of its territory to comply with the said requirements.

(4) Whenever any coupon or bond guaranteed by *this act shall mature and there shall not be sufficient funds in the appropriate local improvement district bond redemption fund to pay same, then the applicable county treasurer shall pay same from the local improvement guaranty fund of the water district; if there shall not be sufficient funds in the said guaranty fund to pay same, then the same may be paid by issuance and delivery of a warrant upon the local improvement guaranty fund.

(5) Whenever the cash balance in the local improvement guaranty fund is insufficient for the required purposes, warrants drawing interest at a rate determined by the commissioners may be issued by the applicable county auditor, against the said fund to meet any liability accrued against it and must be issued upon demand of the holders of any maturing coupons and/or bonds guaranteed by this section, or to pay for any certificates of delinquency for delinquent installments of assessments as provided in subsection (6) of this section. Guaranty fund warrants shall be a first lien in their order of issuance upon the gross revenues set aside and paid into said fund.

(6) Within twenty days after the date of delinquency of any annual installment of assessments levied for the purpose of paying the local improvement bonds of any water district guaranteed under the provisions of *this act, it shall be mandatory for the county treasurer of the county in which the real property is located to compile a statement of all installments delinquent, together with the amount of accrued interest and penalty appurtenant to each of said installments. Thereupon the applicable county treasurer shall forthwith purchase (for the water district) certificates of delinquency for all such delinquent installments. Payment for all such certificates of delinquency shall be made from the local improvement guaranty fund and if there shall not be sufficient moneys in said fund to pay for such certificates of delinquency, the applicable county treasurer shall accept said local improvement guaranty fund warrants in payment therefor. All such certificates of delinquency shall be issued in the name of the local improvement guaranty fund and all guaranty fund warrants issued in payment therefor shall be issued in the name of the appropriate local improvement district fund. Whenever any market is available and the commissioners of the water district so direct, the applicable county treasurer shall sell any certificates of delinquency belonging to the local improvement guaranty fund: *Provided,* That any such sale must not be for less than face value thereof plus accrued interest from date of issuance to date of sale.

Such certificates of delinquency, as above provided, shall be issued by the county treasurer of the county in which the real property is located, shall bear interest at the rate of ten percent per annum, shall be in each instance for the face value of the delinquent installment, plus accrued interest to date of issuance of certificate of delinquency, plus a penalty of five percent of such face value, and shall set forth:

- (a) Description of property assessed;
- (b) Date installment of assessment became delinquent;
- (c) Name of owner or reputed owner, if known.

Such certificates of delinquency may be redeemed by the owner of the property assessed at any time up to two years from the date of foreclosure of such certificate of delinquency.

If any such certificate of delinquency be not redeemed on the second occurring first day of January subsequent to its issuance, the county treasurer who issued the certificate of delinquency shall then proceed to foreclose such certificate of delinquency in the manner specified for the foreclosure of the lien of local improvement assessments, pursuant to chapter 35.50 RCW and if no redemption be made within the succeeding two years shall execute and deliver a deed conveying fee simple title to the property described in the foreclosed certificate of delinquency. [1982 1st ex.s. c 17 § 20; 1981 c 156 § 20; 1937 c 102 § 1; 1935 c 82 § 1; RRS § 11589-1. Formerly RCW 57.20.030 through 57.20.070.]

***Reviser's note:** The term *this act* first appears in 1937 c 102, codified as RCW 57.20.030, 57.20.080, and 57.20.090.

Chapter 57.24

ANNEXATION OF TERRITORY

Sections	
57.24.010	Annexation authorized—Petition—Notice of hearing.
57.24.020	Hearing procedure—Boundaries—Election, notice, judges.
57.24.170	Annexation of certain unincorporated territory—Authorized—Hearing.
57.24.180	Annexation of certain unincorporated territory—Opportunity to be heard—Effective date of annexation resolution—Notice—Referendum.
57.24.190	Annexation of certain unincorporated territory—Referendum authorized—Petition—Election—Effective date of annexation.

57.24.010 Annexation authorized—Petition—Notice of hearing. The territory adjoining or in close proximity to a district may be annexed to and become a part of the district in the following manner: Twenty percent of the number of registered voters residing in the territory proposed to be annexed who voted at the last election may file a petition with the district commissioners and cause the question to be submitted to the electors of the territory whether such territory will be annexed and become a part of the district. If the commissioners concur in the petition, they shall file it with the county election officer of each county in which the real property proposed to be annexed is located, who shall, within ten days, examine and validate the signatures thereon and certify to the sufficiency or insufficiency thereof; and for such purpose the county election officer shall have access to all registration books in the possession of the officers of any city or town in the proposed district. If the petition contains a sufficient number of signatures, the county election officer of the county in which the real property proposed to be annexed is located shall transmit it, together with a certificate of sufficiency attached thereto to the water commissioners of the district. If there are no electors residing in the territory to be annexed, the petition may be signed by such a number as appear of record to own at least a majority of the acreage in the territory, and the petition shall disclose the total number of acres of land in the territory and the names of all record owners of land therein. If the commissioners are satisfied as to the sufficiency of the petition and concur therein, they shall send it, together with their certificate of concurrence attached thereto to the county legislative authority of each county in which the territory proposed to be annexed is located.

The county legislative authority, upon receipt of a petition certified to contain a sufficient number of signatures of electors, or upon receipt of a petition signed by such a number as own at least a majority of the acreage, together with a certificate of concurrence signed by the water commissioners, at a regular or special meeting shall cause to be published once a week for at least two weeks in a newspaper in general circulation throughout the territory proposed to be annexed a notice that the petition has been filed, stating the time of the meeting at

which it shall be presented, and setting forth the boundaries of the territory proposed to be annexed. [1982 1st ex.s. c 17 § 21; 1959 c 18 § 15. Prior: 1951 2nd ex.s. c 25 § 5; 1931 c 72 § 5, part; 1929 c 114 § 15, part; RRS § 11593, part. Cf. 1913 c 161 § 15, part.]

57.24.020 Hearing procedure—Boundaries—Election, notice, judges. When such petition is presented for hearing, the legislative authority of each county in which the territory proposed to be annexed is located shall hear the petition or may adjourn the hearing from time to time not exceeding one month in all, and any person, firm, or corporation may appear before the county legislative authority and make objections to the proposed boundary lines or to annexation of the territory described in the petition. Upon a final hearing each county legislative authority shall make such changes in the proposed boundary lines within the county as they deem to be proper and shall establish and define such boundaries and shall find whether the proposed annexation as established by the county legislative authority to the water district will be conducive to the public health, welfare and convenience and will be of special benefit to the land included within the boundaries of the territory proposed to be annexed to the water district of the territory proposed to be annexed to the water district. No lands which will not, in the judgment of the county legislative authority, be benefited by inclusion therein, shall be included within the boundaries of the territory as so established and defined. No change shall be made by the county legislative authority in the boundary lines, including any territory outside of the boundary lines described in the petition. No person having signed such petition shall be allowed to withdraw his name therefrom after the filing of the petition with the board of water commissioners.

Upon the entry of the findings of the final hearing each county legislative authority, if they find the proposed annexation to be conducive to the public health, welfare and convenience and to be of special benefit to the land proposed to be annexed and included within the boundaries of the district, shall give notice of a special election to be held within the boundaries of the territory proposed to be annexed to the water district for the purpose of determining whether the same shall be annexed to the water district. The notice shall particularly describe the boundaries established by the county legislative authority, and shall state the name of the water district to which the territory is proposed to be annexed, and the notice shall be published in a newspaper of general circulation in the territory proposed to be annexed at least once a week for a minimum of two successive weeks prior to the election and shall be posted for the same period in at least four public places within the boundaries of the territory proposed to be annexed, which notice shall designate the places within the territory proposed to be annexed where the election shall be held, and the proposition to the voters shall be expressed on ballots which contain the words:

For Annexation to Water District
or
Against Annexation to Water District

The county legislative authority shall name the persons to act as judges at such election. [1982 1st ex.s. c 17 § 22; 1959 c 18 § 16. Prior: 1931 c 72 § 5; 1929 c 114 § 15; RRS § 11593. Cf. 1913 c 161 § 15. Formerly RCW 57.24.010, 57.24.020 and 57.24.030.]

57.24.170 Annexation of certain unincorporated territory—Authorized—Hearing. When there is, within a water district, unincorporated territory containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the water district, the board of commissioners may resolve to annex such territory to the water district. The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks prior to the date of the hearing, in one or more newspapers of general circulation within the water district and one or more newspapers of general circulation within the area to be annexed. [1982 c 146 § 4.]

57.24.180 Annexation of certain unincorporated territory—Opportunity to be heard—Effective date of annexation resolution—Notice—Referendum. On the date set for hearing under RCW 57.24.170, residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The board of commissioners may provide by resolution for annexation of the territory described in the resolution, but the effective date of the resolution shall be not less than forty-five days after the passage thereof. The board of commissioners shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the resolution, in one or more newspapers of general circulation within the water district and in one or more newspapers of general circulation within the area to be annexed. Upon the filing of a timely and sufficient referendum petition under RCW 57.24.190, a referendum election shall be held under RCW 57.24.190, and the annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto. After the expiration of the forty-fifth day from, but excluding the date of passage of the annexation resolution, if no timely and sufficient referendum petition has been filed, under RCW 57.24.190, the area annexed shall become a part of the water district upon the date fixed in the resolution of annexation. [1982 c 146 § 5.]

57.24.190 Annexation of certain unincorporated territory—Referendum authorized—Petition—Election—Effective date of annexation. Such annexation

resolution under RCW 57.24.180 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the board of commissioners, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of such election shall be given under RCW 57.24.020 and the election shall be conducted under RCW 57.24.040. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation resolution, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the water district upon the date fixed in the resolution of annexation upon transmitting the resolution to the county legislative authority. [1982 c 146 § 6.]

Chapter 57.28

WITHDRAWAL OF TERRITORY

Sections	
57.28.020	Petition of residents.
57.28.060	Transmission to county legislative authorities.
57.28.070	Notice of hearing before county authority.
57.28.090	Election on withdrawal.
57.28.100	Notice of election—Election—Canvass.

57.28.020 Petition of residents. The petition for withdrawal shall be filed with the county election officer of each county in which the water district is located, and after the filing no person having signed the petition shall be allowed to withdraw his name therefrom. Within ten days after such filing, each county election officer shall examine and verify the signatures of signers residing in the county. For such purpose the county election officer shall have access to all appropriate registration books in the possession of the election officers of any incorporated city or town within the water district. The petition shall be transmitted to the election officer of the county in which the largest land area of the district is located, who shall certify to the sufficiency or insufficiency of the signatures. If such petition be found by such county election officer to contain sufficient signatures, the petition, together with a certificate of sufficiency attached thereto, shall be transmitted to the commissioners of the water district. [1982 1st ex.s. c 17 § 23; 1941 c 55 § 2; Rem. Supp. 1941 § 11604-2.]

57.28.060 Transmission to county legislative authorities. Within ten days after the final hearing the commissioners of the water district shall transmit to the county legislative authority of each county in which the water district is located the petition for withdrawal together

with a copy of the findings and recommendations of the commissioners of the water district certified by the secretary of the water district to be a true and correct copy of such findings and recommendations as the same appear on the records of the water district. [1982 1st ex.s. c 17 § 24; 1941 c 55 § 6; Rem. Supp. 1941 § 11604-6.]

57.28.070 Notice of hearing before county authority. Upon receipt of the petition and certified copy of the findings and recommendation adopted by the water commissioners, the county legislative authority of each county in which the district is located at a regular or special meeting shall fix a time and place for hearing thereon and shall cause to be published at least once a week for two or more weeks in successive issues of a newspaper of general circulation in the water district, a notice that such petition has been presented to the county legislative authority stating the time and place of the hearing thereon, setting forth the boundaries of the territory proposed to be withdrawn as such boundaries are established and defined in the findings or recommendations of the commissioners of the water district. [1982 1st ex.s. c 17 § 25; 1941 c 55 § 7; Rem. Supp. 1941 § 11604-7.]

57.28.090 Election on withdrawal. If the findings of any county legislative authority answer any of such questions of fact in the negative, or if any of the findings of the county legislative authority are not the same as the findings of the water district commissioners upon the same question, then in either of such events, the petition for withdrawal shall be deemed denied. Thereupon, and in such event, the county legislative authority of each county in which the district is located shall by resolution cause a special election to be held not less than thirty days or more than sixty days from the date of the final hearing of any county legislative authority upon the petition for withdrawal, at which election the proposition expressed on the ballots shall be substantially as follows:

"Shall the territory established and defined by the water district commissioners at their meeting held on the ----- (insert date of final hearing of water district commissioners upon the petition for withdrawal) be withdrawn from water district ----- (naming it):
 YES NO

[1982 1st ex.s. c 17 § 26; 1941 c 55 § 9; Rem. Supp. 1941 § 11604-9.]

57.28.100 Notice of election—Election—Canvass. Notice of such election shall be posted and published in the same manner provided by law for the posting and publication of notice of elections to annex territory to water districts. The territory described in the notice shall be that established and defined by the water district commissioners. All qualified voters residing within the water district shall have the right to vote at the election. If a majority of the votes cast favor the withdrawal from the water district of such territory, then within ten days after the official canvass of such election the county legislative authority of each county

in which the district is located, shall by resolution establish that the territory has been withdrawn, and the territory shall thereupon be withdrawn and excluded from the water district the same as if it had never been included therein except for the lien of any taxes as hereinafter set forth. [1982 1st ex.s. c 17 § 27; 1941 c 55 § 10; Rem. Supp. 1941 § 11604-10.]

Chapter 57.32

CONSOLIDATION OF DISTRICTS

Sections	
57.32.010	Consolidation authorized—Petition method—Resolution method.
57.32.020	Certificate of sufficiency.
57.32.022	Certification of agreement—Election, notice and conduct.
57.32.023	Consolidation effected—Cessation of former districts—Rights and powers of consolidated district.

57.32.010 Consolidation authorized—Petition method—Resolution method. Two or more water districts, adjoining or in close proximity to each other, may be joined into one consolidated water district. The consolidation may be initiated in either of the following ways: Ten percent of the legal electors residing within each of the water districts proposed to be consolidated may petition the board of water commissioners of each of their respective water districts to cause the question to be submitted to the legal electors of the water districts proposed to be consolidated; or the boards of water commissioners of each of the water districts proposed to be consolidated may by resolution determine that the consolidation of the districts shall be conducive to the public health, welfare, and convenience and to be of special benefit to the lands of the districts. [1982 1st ex.s. c 17 § 28; 1967 ex.s. c 39 § 1; 1943 c 267 § 1; Rem. Supp. 1943 § 11604-20.]

57.32.020 Certificate of sufficiency. If the consolidation proceedings are initiated by petition, upon the filing of such petitions with the boards of water commissioners of the water districts, the boards of water commissioners of each district shall file such petitions with the election officer of each county in which any district is located who shall within ten days examine and verify the signatures of the signers residing in the county. The petition shall be transmitted by the other county election officers to the county election officer of the county in which the largest land area involved in the petitions is located, who shall certify to the sufficiency or insufficiency of the signatures. If all of such petitions shall be found to contain a sufficient number of signatures, the county election officer shall transmit the same, together with a certificate of sufficiency attached thereto, to the boards of water 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 water districts proposed to be consolidated, such petitions may be signed by such a number as appear of record to own at least a majority of the acreage in the pertinent water district, and the petitions shall disclose the total number

of acres of land in the said water district and shall also contain the names of all record owners of land therein. [1982 1st ex.s. c 17 § 30; 1967 ex.s. c 39 § 2; 1943 c 267 § 2; Rem. Supp. 1943 § 11604-21.]

57.32.022 Certification of agreement—Election, notice and conduct. The respective boards of water commissioners of the consolidating districts shall certify the agreement to the county election officer of each county in which the districts are located. A special election shall be called by the county election officer under RCW 57.02.060 for the purpose of submitting to the voters of each of the consolidating districts the proposition of whether or not the several districts shall be consolidated into one water district. The proposition shall give the title of the proposed consolidated district. Notice of the election shall be given and the election conducted in accordance with the general election laws. [1982 1st ex.s. c 17 § 31; 1967 ex.s. c 39 § 9.]

57.32.023 Consolidation effected—Cessation of former districts—Rights and powers of consolidated district. If at the election a majority of the voters in each of the consolidating districts vote in favor of the consolidation, the county canvassing board shall so declare in its canvass under RCW 57.02.060 and the return of such election shall be made within ten days after the date thereof. Upon the return the consolidation shall be effective and the consolidating districts shall cease to exist and shall then be and become a new water district and municipal corporation of the state of Washington. The name of such new water district shall be "Water District No. -----", which shall be the name appearing on the ballot. The district shall have all and every power, right, and privilege possessed by other water districts of the state of Washington. The district may issue revenue bonds to pay for the construction of any additions and betterments set forth in the comprehensive plan of water supply contained in the agreement for consolidation and any future additions and betterments to the comprehensive plan of water supply, as its board of water commissioners shall by resolution adopt, without submitting a proposition therefor to the voters of the district. [1982 1st ex.s. c 17 § 32; 1967 ex.s. c 39 § 10.]

Chapter 57.36

MERGER OF DISTRICTS

Sections

57.36.010	Merger of districts authorized—Prerequisites.
57.36.030	Agreement—Certification to county election officer—Election in merging district, notice, conduct.
57.36.040	Return of election—When merger effective—Cessation of merging district—Commissioners—Terms.

each other, either district, hereinafter referred to as the "merging district", may merge into the other district, hereinafter referred to as the "merger district", and the merger district will survive under its original number. The term "in proximity to" as used hereinabove shall mean within one mile of each other, measured in a straight line between the closest points of approach of the territorial boundaries of the two districts. [1982 1st ex.s. c 17 § 29; 1967 ex.s. c 39 § 3; 1961 c 28 § 1.]

57.36.030 Agreement—Certification to county election officer—Election in merging district, notice, conduct. Whenever a merger is initiated in either of the two ways provided under this chapter, the boards of water commissioners of the two districts shall enter into an agreement providing for the merger. Said agreement must be entered into within ninety days following completion of the last act in initiation of the merger.

The respective boards of water commissioners shall certify the agreement to the county election officer of each county in which the districts are located. The county election officer 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. [1982 1st ex.s. c 17 § 33; 1967 ex.s. c 39 § 5; 1961 c 28 § 3.]

57.36.040 Return of election—When merger effective—Cessation of merging district—Commissioners—Terms. If at such election a majority of the voters of the merging water district shall vote in favor of the merger, the county canvassing board shall so declare in its canvass and the return of such election shall be made within ten days after the date thereof, and upon such return the merger shall be effective and the merging water district shall cease to exist and shall become a part of the merger water district. The water commissioners of the merging district shall hold office as commissioners of the new consolidated water district until their respective terms of office expire or until they resign from office if the resignation is before the expiration of their terms of office. At the district election immediately preceding the time when the total number of remaining water commissioners is reduced to two through expiration of terms of office, one water commissioner shall be elected for a four year term of office. At the next district election, one water commissioner shall be elected for a four year term of office and one shall be elected for a six year term of office. Thereafter, each water commissioner shall be elected for a six-year term of office in the manner provided by RCW 57.12.020 and 57.12.030 for elections in an existing district. [1982 c 104 § 2; 1967 ex.s. c 39 § 6; 1961 c 28 § 4.]

57.36.010 Merger of districts authorized—Prerequisites. Whenever there are two water districts, the territories of which are adjoining or in close proximity to

Chapter 57.40

Chapter 57.90

MERGER OF WATER DISTRICTS INTO SEWER DISTRICTS—MERGER OF SEWER DISTRICTS INTO WATER DISTRICTS

DISINCORPORATION OF WATER AND OTHER DISTRICTS IN CLASS A OR AA COUNTIES

Sections

- 57.40.100 Merger of sewer districts into water districts—Authorized.
57.40.130 Election—Results—Effect—Commissioners—Terms.

Sections

- 57.90.020 Proceedings, how commenced—Public hearings.

57.40.100 Merger of sewer districts into water districts—Authorized. Any sewer district, acting alone or in conjunction with any other sewer district or districts similarly situated as hereafter described, the territory of which lies wholly or partly within, or which is adjoining or in proximity to a water district, may merge into the water district, and the water district will survive under its original name. The term "in proximity to" as used herein shall mean within one mile of each other, measured in a straight line between the closest points of approach of the territorial boundaries of the respective districts. [1982 1st ex.s. c 17 § 34; 1971 ex.s. c 146 § 1.]

57.90.020 Proceedings, how commenced—Public hearings. Upon the filing with the county legislative authority of each county in which the district is located of a resolution of any governmental unit calling for the disincorporation of a special district, or upon the filing with the county legislative authority of each county in which the district is located of the petition of twenty percent of the qualified electors within a special district calling for the disincorporation of a special district the county legislative authority shall hold public hearings to determine whether or not any services have been provided within a consecutive five year period and whether the best interests of all persons concerned will be served by the proposed dissolution of the special district. [1982 1st ex.s. c 17 § 35; 1963 c 55 § 2.]

57.40.130 Election—Results—Effect—Commissioners—Terms. If at such election a majority of the voters in the sewer district or all or either of the sewer districts involved, shall vote in favor of the merger, the county election canvassing board shall so declare in its canvass, and the return of the election shall be made within ten days after the date of such election. Upon completion of the return the merger shall be effective as to the water district and each sewer district in which the majority of voters voted in favor of the merger, and each such sewer district shall cease to exist as a separate entity and the area within such sewer district shall become a part of the water district. The sewer commissioners of any sewer district so merged shall hold office as commissioners of the water district into which the sewer district was merged until their respective terms of office expire or until they resign from office if the resignation is before the expiration of their terms of office. At the district election immediately preceding the time when the total number of remaining water commissioners is reduced to two through expiration of terms of office or resignations, one water commissioner shall be elected for a four year term of office. At the next district election, one water commissioner shall be elected for a four [year] term of office and one shall be elected for a six year term of office. Thereafter, each water commissioner shall be elected for a six-year term of office in the manner provided by RCW 57.12.020 and 57.12.030 for elections in an existing district. [1982 c 104 § 3; 1981 c 45 § 12; 1971 ex.s. c 146 § 4.]

Legislative declaration—"District" defined—Severability—1981 c 45: See notes following RCW 56.36.060.

Title 58

BOUNDARIES AND PLATS

Chapters

- 58.17 Plats—Subdivisions—Dedications.
58.24 State agency for surveys and maps—Fees.

Chapter 58.17

PLATS—SUBDIVISIONS—DEDICATIONS

Sections

- 58.17.080 Filing of preliminary plat—Notice.

Fees for filing subdivision plats and short plats: RCW 58.24.070.

58.17.080 Filing of preliminary plat—Notice. Notice of the filing of a preliminary plat of a proposed subdivision adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities. Any notice required by this chapter shall include the hour and location of the hearing and a description of the property to be platted. Notice of the filing of a preliminary plat of a proposed subdivision located in a city or town and adjoining the municipal boundaries thereof shall be given to appropriate county officials. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation. In the case of notification to the secretary of transportation, the secretary shall respond to the notifying authority within fifteen days of such notice as to the effect that the proposed subdivision will have on the state highway or

the state or municipal airport. [1982 c 23 § 1; 1969 ex.s. c 271 § 8.]

Chapter 58.24

STATE AGENCY FOR SURVEYS AND MAPS— FEES

Sections

58.24.010	Declaration of necessity.
58.24.020	Official agency designated—Advisory board.
58.24.030	Official agency designated—Powers—Cooperate and advise—Purposes.
58.24.040	Official agency designated—Powers—Standards, maps, records, report, temporary removal of boundary marks or monuments.
58.24.050	Employees—Licensed engineers or surveyors.
58.24.060	Surveys and maps account—Established—Purposes.
58.24.070	Fees for filing and recording surveys, plats, or maps—Deposit and use of fees.
58.24.080	Guide of public parks and recreation sites—Fee.

58.24.010 Declaration of necessity. It is the responsibility of the state to provide a means for the identification and preservation of survey points for the description of common land boundaries in the interest of the people of the state. There is a necessity for the adoption and maintenance of a system of permanent reference as to boundary monuments. The division of engineering services of the department of natural resources shall be the recognized agency for the establishment of this system. [1982 c 165 § 1; 1951 c 224 § 2.]

Severability—1951 c 224: "If any provision of this act shall be declared invalid, such invalidity shall not affect any other portion of this act which can be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable." [1951 c 224 § 7.] This applies to the enactment of RCW 58.24.010, 58.24.020, 58.24.030, 58.24.040, 58.24.050 and to the 1951 amendment to RCW 58.16.100.

58.24.020 Official agency designated—Advisory board. The division of engineering services of the department of natural resources is designated as the official agency for surveys and maps. The commissioner of public lands shall appoint an advisory board of five members, the majority of whom shall be registered professional engineers or land surveyors, who shall serve at the pleasure of the commissioner. Members of the board shall serve without salary but are to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended while actively engaged in the discharge of their duties. [1982 c 165 § 2; 1975-'76 2nd ex.s. c 34 § 152; 1951 c 224 § 3.]

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

Severability—1951 c 224: See note following RCW 58.24.010.

Department of natural resources to exercise powers and duties of commissioner of public lands: RCW 43.30.130.

58.24.030 Official agency designated—Powers—Cooperate and advise—Purposes. The commissioner of public lands and the division of engineering

services and the advisory board are authorized to cooperate and advise with various departments and subdivisions of the state, counties, municipalities, and registered engineers or land surveyors of the state for the following purposes:

(1) The recovery of section corners or other land boundary marks;

(2) The monumentation of accepted section corners, and other boundary and reference marks; said monumentation shall be adequately connected to adjusted United States coast and geodetic survey triangulation stations and the coordinates of the monuments computed to conform with the Washington coordinate system in accordance with the provisions of chapter 58.20 RCW, as derived from chapter 168, Laws of 1945;

(3) For facilitation and encouragement of the use of the Washington state coordinate system; and

(4) For promotion of the use of the level net as established by the United States coast and geodetic survey. [1982 c 165 § 3; 1951 c 224 § 4.]

Severability—1951 c 224: See note following RCW 58.24.010.

58.24.040 Official agency designated—Powers—Standards, maps, records, report, temporary removal of boundary marks or monuments. The agency designated by RCW 58.24.020 is further authorized to:

(1) Set up standards of accuracy and methods of procedure;

(2) Compile and publish maps and records from surveys performed under the provisions of this chapter, and to maintain suitable indexes of surveys to prevent duplication of effort and to cooperate with all agencies of local, state, and federal government to this end;

(3) Compile and maintain records of all surveys performed under the provisions of this chapter, and assemble and maintain records of all reliable survey monuments and bench marks within the state;

(4) Collect and preserve information obtained from surveys locating and establishing land monuments and land boundaries;

(5) Supervise the sale and distribution of maps, map data, photographs, and cadastral and geodetic survey data, and such publications as may come into the possession of the department of natural resources. Revenue derived from the sale thereof shall be deposited in the surveys and maps account in the general fund;

(6) Submit, as part of the biennial report of the commissioner of public lands, a report of the accomplishments of the agency;

(7) Permit the temporary removal or destruction of any section corner or any other land boundary mark or monument by any person, corporation, association, department, or subdivision of the state, county, or municipality as may be necessary or desirable to accommodate construction, mining, and other development of any land: *Provided*, That such section corner or other land boundary mark or monument shall be referenced to the Washington Coordinate System by a registered professional engineer or land surveyor prior to such removal or destruction, and shall be replaced or a suitable reference

monument established by a registered professional engineer or land surveyor within a reasonable time after completion of such construction, mining, or other development: *And provided further*, That the department of natural resources shall adopt and promulgate reasonable rules and regulations under which the agency shall authorize such temporary removal or destruction and require the replacement of such section corner or other land boundary marks or monuments. [1982 c 165 § 4; 1969 ex.s. c 271 § 25; 1951 c 224 § 6.]

Severability—1969 ex.s. c 271: See RCW 58.17.910.

Severability—1951 c 224: See note following RCW 58.24.010.

58.24.050 Employees—**Licensed engineers or surveyors.** All employees who are in responsible charge of work under the provisions of this chapter shall be licensed professional engineers or land surveyors. [1982 c 165 § 5; 1951 c 224 § 5.]

Severability—1951 c 224: See note following RCW 58.24.010.

58.24.060 Surveys and maps account—**Established**—**Purposes.** There is created in the general fund of the state treasury the surveys and maps account which shall be a separate account consisting of funds received or collected under chapters 58.22 and 58.24 RCW, moneys appropriated to it by law, and moneys deposited in the account from the sale of surveys, maps, map data, publications, and photographs. This account shall be used exclusively by the department of natural resources for carrying out the purposes and provisions of chapters 58.22 and 58.24 RCW and RCW 43.99.142. Appropriations from the account shall be expended for no other purposes. [1982 c 165 § 6.]

58.24.070 Fees for filing and recording surveys, plats, or maps—**Deposit and use of fees.** A fee to be established by rule in accordance with chapter 34.04 RCW by the department of natural resources in consultation with the surveys and maps advisory board shall not exceed the actual cost to the department of providing the service, and shall be charged by each county auditor, in addition to any other fees required by law, as a condition precedent to the filing and recording of any surveys, subdivision plats, short plats, and condominium surveys, plats, or maps. Ten percent of the fees imposed under this section shall be credited to the county current expense fund and ninety percent shall be forwarded monthly to the state treasurer to be deposited in the surveys and maps account in the general fund. The fees shall be verified in the same manner as other fees collected by the county auditor. Fees collected under this section shall be expended by the department only for the maintenance, sale, and distribution of survey records information and publications authorized by RCW 43.99.142. [1982 c 165 § 7.]

Condominium surveys and maps: RCW 64.32.100.

Plats and subdivisions: Chapter 58.17 RCW.

58.24.080 Guide of public parks and recreation sites—**Fee.** A fee to be established by rule in accordance with chapter 34.04 RCW by the department of natural resources in consultation with the interagency committee for outdoor recreation, shall be charged to cover the production and distribution costs of a comprehensive guide of public parks and recreation sites in the state of Washington as authorized under RCW 43.99.142. [1982 c 165 § 8.]

Title 60 LIENS

Chapters

60.28 Lien for labor, materials, taxes on public works.

Chapter 60.28

LIEN FOR LABOR, MATERIALS, TAXES ON PUBLIC WORKS

Sections

60.28.010	Retained percentage—Labor and material lien created—Bond in lieu of retained funds—Termination before completion—Chapter deemed exclusive—Release of ferry contract payments.
60.28.050	Duties of disbursing officer upon final acceptance of contract.
60.28.070	Repealed.
60.28.080	Delay due to litigation—Change order or force account directive—Costs—Arbitration—Termination.

60.28.010 Retained percentage—**Labor and material lien created**—**Bond in lieu of retained funds**—**Termination before completion**—**Chapter deemed exclusive**—**Release of ferry contract payments.** (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 not to exceed five percent, 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 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; (a) 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 which would otherwise be 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: *Provided*, That the contractor may request that retainage be reduced to one hundred percent of the value of the work remaining on the project; and (b) thirty days after completion and acceptance of all contract work other than landscaping, may release and pay in full the amounts retained during the performance of the contract (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of RCW 60.28.020.

(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;

(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) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(4) With the consent of the public body the contractor may submit a bond for all or any portion of the amount of funds retained by the public body in a form acceptable to the public body. Such bond and any proceeds therefrom shall be made subject to all claims and liens

and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(5) If the public body administering a contract, 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.

(6) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, thirty days after completion and final acceptance of each ferry vessel, the department may release and pay in full the amounts retained in connection with the construction of such vessel subject to the provisions of RCW 60.28.020: *Provided*, That the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on such ferry after a period of thirty days following final acceptance of such ferry; and if such taxes are certified or claims filed, recovery may be had on such bond by the department of revenue and the materialmen and laborers filing claims. [1982 c 170 § 1; 1981 c 260 § 14. Prior: 1977 ex.s. c 205 § 1; 1977 ex.s. c 166 § 5; 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.]

Severability—1977 ex.s. c 166: See note following RCW 47.60.650.

60.28.050 Duties of disbursing officer upon final acceptance of contract. Upon final acceptance of a contract, the state, county or other municipal officer

charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue of the completion of contracts over twenty thousand dollars. Such officer shall not make any payment from the retained percentage fund or release any retained percentage escrow account to any person, until he has received from the department of revenue a certificate that all taxes, increases and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in the department's opinion, readily collectible without recourse to the state's lien on the retained percentage. [1982 c 170 § 2; 1970 ex.s. c 38 § 3; 1967 ex.s. c 26 § 24; 1955 c 236 § 5. Prior: 1949 c 228 § 27, part; Rem. Supp. 1949 § 8370-204a, part; RCW 82.32.250, part.]

Effective date—1967 ex.s. c 26: See note following RCW 82.01.050.

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

60.28.080 Delay due to litigation—Change order or force account directive—Costs—Arbitration—Termination. (1) If any delay in issuance of notice to proceed or in construction following an award of any public construction contract is primarily caused by acts or omissions of persons or agencies other than the contractor and a preliminary, special or permanent restraining order of a court of competent jurisdiction is issued pursuant to litigation and the appropriate public contracting body does not elect to delete the completion of the contract as provided by *RCW 60.28.010(3), the appropriate contracting body will issue a change order or force account directive to cover reasonable costs incurred by the contractor as a result of such delay. These costs shall include but not be limited to contractor's costs for wages, labor costs other than wages, wage taxes, materials, equipment rentals, insurance, bonds, professional fees, and subcontracts, attributable to such delay plus a reasonable sum for overhead and profit.

In the event of a dispute between the contracting body and the contractor, arbitration procedures may be commenced under the applicable terms of the construction contract, or, if the contract contains no such provision for arbitration, under the then obtaining rules of the American Arbitration Association.

If the delay caused by litigation exceeds six months, the contractor may then elect to terminate the contract and to delete the completion of the contract and receive payment in proportion to the amount of the work completed plus the cost of the delay. Amounts retained and accumulated under RCW 60.28.010 shall be held for a period of thirty days following the election of the contractor to terminate. Election not to terminate the contract by the contractor shall not affect the accumulation of costs incurred as a result of the delay provided above.

(2) This section shall not apply to any contract awarded pursuant to an invitation for bid issued on or before July 16, 1973. [1982 c 170 § 3; 1973 1st ex.s. c 62 § 3.]

***Reviser's note:** "RCW 60.28.010(3)" was renumbered as RCW 60.28.010(5) by 1982 c 170 § 1.

Severability—1973 1st ex.s. c 62: See note following RCW 39.04.120.

Pollution and preservation of natural resources laws to be included in bid invitations, change orders, costs: RCW 39.04.120.

Title 62A

UNIFORM COMMERCIAL CODE

Articles

- 2 Sales.
9 Secured transactions; sales of accounts, contract rights and chattel paper.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Article 2

SALES

Sections

PART 3 GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

62A.2-316 Exclusion or modification of warranties.

PART 3 GENERAL OBLIGATION AND CONSTRUCTION OF CONTRACT

62A.2-316 Exclusion or modification of warranties.

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this Article on parol or extrinsic evidence (RCW 62A.2-202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

(3) Notwithstanding subsection (2)

(a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and

(b) when the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an

examination ought in the circumstances to have revealed to him;

(c) an implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade; and

(d) in sales of livestock, including but not limited to, horses, mules, cattle, sheep, swine, goats, poultry, and rabbits, there are no implied warranties as defined in this article that the livestock are free from sickness or disease: *Provided*, That the seller has complied with all state and federal laws and regulations that apply to animal health and disease, and the seller is not guilty of fraud, deceit or misrepresentation.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section and the provisions of RCW 62A.2-719, as now or hereafter amended, in any case where goods are purchased primarily for personal, family or household use and not for commercial or business use, disclaimers of the warranty of merchantability or fitness for particular purpose shall not be effective to limit the liability of merchant sellers except insofar as the disclaimer sets forth with particularity the qualities and characteristics which are not being warranted. Remedies for breach of warranty can be limited in accordance with the provisions of this Article on liquidation or limitation of damages and on contractual modification of remedy (RCW 62A.2-718 and RCW 62A.2-719). [1982 c 199 § 1; 1974 ex.s. c 180 § 1; 1974 ex.s. c 78 § 1; 1965 ex.s. c 157 § 2-316. Subd. (3)(b) cf. former RCW 63.04.160(3); 1925 ex.s. c 142 § 15; RRS § 5836-15. Subd. (3)(c) cf. former RCW 63.04.720; 1925 ex.s. c 142 § 71; RRS § 5836-71.]

Lease or rental of personal property—Disclaimer of warranty of merchantability or fitness: RCW 63.18.010.

Article 9

SECURED TRANSACTIONS; SALES OF ACCOUNTS, CONTRACT RIGHTS AND CHATTEL PAPER

Sections

PART 2

VALIDITY OF SECURITY AGREEMENT AND RIGHTS OF PARTIES THERETO

62A.9-203 Attachment and enforceability of security interest; proceeds, formal requisites.

PART 3

RIGHTS OF THIRD PARTIES; PERFECTED AND UNPERFECTED SECURITY INTERESTS; RULES OF PRIORITY

62A.9-301 Persons who take priority over unperfected security interests; right of "lien creditor".

62A.9-312 Priorities among conflicting security interests in the same collateral.

62A.9-313 Priority of security interests in fixtures.

PART 4

FILING

62A.9-402 Formal requisites of financing statement; amendments; mortgage as financing statement.

62A.9-403 What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.

62A.9-404 Termination statement.

62A.9-405 Assignment of security interest; duties of filing officer; fees.

62A.9-406 Release of collateral; duties of filing officer; fees.

62A.9-407 Information from filing officer.

PART 2

VALIDITY OF SECURITY AGREEMENT AND RIGHTS OF PARTIES THERETO

62A.9-203 Attachment and enforceability of security interest; proceeds, formal requisites. (1) Subject to the provisions of RCW 62A.4-208 on the security interest of a collecting bank and RCW 62A.9-113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless

(a) the collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers timber to be cut, a description of the land concerned; and

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by RCW 62A.9-306.

(4) A transaction, although subject to this Article, is also subject to chapters 31.04, 31.08, 31.12, 31.16, 31.20, and 31.24 RCW, and in the case of conflict between the provisions of this Article and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein. [1982 c 186 § 1; 1981 c 41 § 12; 1965 ex.s. c 157 § 9-203. Cf. former RCW sections: (i) RCW 61.04.010; 1929 c 156 § 1; 1899 c 98 § 1; RRS § 3779; cf. 1881 § 1986; 1879 p 104 § 1; 1877 p 286 § 1; 1875 p 43 § 1. (ii) RCW 61.20.020; 1957 c 249 § 1; 1943 c 71 § 2; Rem. Supp. 1943 § 11548-31. (iii) RCW 61.20.040; 1943 c 71 § 4; Rem. Supp. 1943 § 11548-33. (iv) RCW 63.12.010; 1963 c 236 § 22; 1961 c 196 § 1; 1933 c 129 § 1; 1915 c 95 § 1; 1903 c 6 § 1; 1893 c 106 § 1; RRS § 3790. (v) RCW 63.16.020 and 63.16.030; 1947 c 8 §§ 2 and 3; Rem. Supp. 1947 §§ 2721-2 and 2721-3.]

Effective date—1982 c 186: "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 midnight June 30, 1982." [1982 c 186 § 12.]

Effective date—1981 c 41: See RCW 62A.11-101.

PART 3
RIGHTS OF THIRD PARTIES; PERFECTED AND
UNPERFECTED SECURITY INTERESTS; RULES
OF PRIORITY

62A.9-301 Persons who take priority over unperfected security interests; right of "lien creditor". (1) Except as otherwise provided in subsection (2), an unperfected security interest is subordinate to the rights of

(a) persons entitled to priority under RCW 62A.9-312;

(b) a person who becomes a lien creditor before the security interest is perfected;

(c) in the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business, or is a buyer of farm products in ordinary course of business, to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected;

(d) in the case of accounts and general intangibles, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within twenty days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien. [1982 c 186 § 2; 1981 c 41 § 15; 1965 ex.s. c 157 § 9-301. Cf. former RCW sections: (i) RCW 61.04.010; 1929 c 156 § 1; 1899 c 98 § 1; RRS § 3779; cf. 1881 § 1986; 1879 p 104 § 1; 1877 p 286 § 1; 1875 p 43 § 1. (ii) RCW 61.04.020; 1943 c 284 § 1; 1915 c 96 § 1; Code 1881 § 1987; Rem. Supp. 1943 § 3780; prior: 1879 p 105 § 2; 1877 p 286 § 3; 1875 p 44 § 3; 1863 p 426 § 1. (iii) RCW 61.20.010 and 61.20.090(2); 1943 c 71 §§ 1 and 9; Rem. Supp. 1943 §§ 11548-30 and 11548-38. (iv) RCW 61.20.080(1), (2), (3); 1957 c 249 § 2; 1943 c 71 § 8; Rem. Supp. 1943 § 11548-37. (v) RCW 63.12.010; 1963 c 236 § 22; 1961 c 196 § 1; 1933 c 129 § 1; 1915 c 95 § 1; 1903 c 6 § 1; 1893 c 106 § 1; RRS § 3790. (vi) RCW 63.16.020 and 63.16.030; 1947 c 8 §§ 2 and 3; Rem. Supp. 1947 §§ 2721-2 and 2721-3.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

62A.9-312 Priorities among conflicting security interests in the same collateral. (1) The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: RCW 62A.4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; RCW 62A.9-103 on security interests related to other jurisdictions; RCW 62A.9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of RCW 62A.9-304); and

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within twenty days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates

from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing or the taking of possession, the security interest has the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made. [1982 c 186 § 3; 1981 c 41 § 22; 1965 ex.s. c 157 § 9-312. Cf. former RCW sections: (i) RCW 61.04.020; 1943 c 284 § 1; 1915 c 96 § 1; Code 1881 § 1987; Rem. Supp. 1943 § 3780; prior: 1879 p 105 § 2; 1877 p 286 § 3; 1875 p 44 § 3; 1863 p 426 § 1. (ii) RCW 61.20.010 and 61.20.090; 1943 c 71 §§ 1 and 9; Rem. Supp. 1943 §§ 11548-30 and 11548-38. (iii) RCW 63.12.010; 1963 c 236 § 22; 1961 c 196 § 1; 1933 c 129 § 1; 1915 c 95 § 1; 1903 c 6 § 1; 1893 c 106 § 1; RRS § 3790. (iv) RCW 63.16.030 and 63.16.090; 1947 c 8 §§ 3 and 9; Rem. Supp. 1947 §§ 2721-3 and 2721-9.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

62A.9-313 Priority of security interests in fixtures.

(1) In this section and in the provisions of Part 4 of this Article referring to fixture filing, unless the context otherwise requires

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subsection (5) of RCW 62A.9-402;

(c) a mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this Article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this Article in ordinary building materials incorporated into an improvement on land.

(3) This Article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within twenty days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) the security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) the fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this Article; or

(d) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this Article.

(5) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) the debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(6) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4) and (5), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(7) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(8) When the secured party has priority over all owners and encumbrancers of the real estate, he may, on default, subject to the provisions of Part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation. [1982 c 186 § 4; 1981 c 41 § 23; 1965 ex.s. c 157 § 9-313. Cf. former RCW sections: (i) RCW 61.04.040; 1943 c 76 § 1; 1899 c 98 § 3; Rem. Supp. 1943 § 3782.]

(ii) RCW 63.12.020; 1933 c 129 § 2; 1903 c 6 § 2; 1893 c 106 § 2; RRS § 3791.]

Effective date—1982 c 186: See note following RCW 62A.9-203.
Effective date—1981 c 41: See RCW 62A.11-101.

PART 4
FILING

62A.9-402 Formal requisites of financing statement; amendments; mortgage as financing statement. (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or when the financing statement is filed as a fixture filing (RCW 62A.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under RCW 62A.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor)
Address
Name of secured party (or assignee)
Address

1. This financing statement covers the following types (or items) of property:
(Describe)

2. (If applicable) The above goods are to become fixtures on*

(Describe Real Estate)
and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

*Where appropriate substitute either "The above timber is standing on" or "The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on"

3. (If products of collateral are claimed)
Products of the collateral are also covered

(use
whichever applicable) Signature of Debtor (or Assignor)
is
Signature of Secured Party (or Assignee)

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments. The fee for filing an amendment shall be the same as the fee for filing a financing statement.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or a financing statement filed as a fixture filing (RCW 62A.9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the

debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. [1982 c 186 § 5; 1981 c 41 § 26; 1965 ex.s. c 157 § 9-402. Cf. former RCW sections: (i) RCW 61.04.020; 1943 c 284 § 1; 1915 c 96 § 1; Code 1881 § 1987; Rem. Supp. 1943 § 3780; prior: 1879 p 105 § 2; 1877 p 286 § 3; 1875 p 44 § 3; 1863 p 426 § 1. (ii) RCW 61.04.040; 1943 c 76 § 1; 1899 c 98 § 3; Rem. Supp. 1943 § 3782. (iii) RCW 61.20.130; 1943 c 71 § 13; Rem. Supp. 1943 § 11548-42. (iv) RCW 63.12.010; 1963 c 236 § 22; 1961 c 196 § 1; 1933 c 129 § 1; 1915 c 95 § 1; 1903 c 6 § 1; 1893 c 106 § 1; RRS § 3790. (v) RCW 63.16.030; 1947 c 8 § 3; Rem. Supp. 1947 § 2721-3.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

62A.9-403 What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer. (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of RCW 62A.9-405, including payment of the required

fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove the original of any statement from the files and destroy it at any time if he has substituted a copy by microfilm or other photographic record. The filing officer may destroy any original, microfilm, or photographic record of any lapsed statement not earlier than one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the original of the financing statements, a microfilm or other photographic copy of those statements which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained.

(4) Except as provided in subsection (7) a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. The original statement may be destroyed at any time after a microfilm or other photographic copy is made of the original statement. This microfilm or other photographic copy shall thereafter be treated as if it were the original filing for all purposes. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be four dollars if the statement is in the standard form prescribed by the department of licensing, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be seven dollars. The secured party may at his option show a trade name for any person.

(6) If the debtor is a transmitting utility (subsection (5) of RCW 62A.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of RCW 62A.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they

were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described. [1982 c 186 § 6; 1981 c 41 § 27; 1979 c 158 § 212; 1977 ex.s. c 117 § 8; 1967 c 114 § 5; 1965 ex.s. c 157 § 9-403. Cf. former RCW sections: (i) RCW 61.04.030; 1959 c 263 § 11; 1953 c 214 § 3; 1943 c 284 § 2; 1899 c 98 § 2; Rem. Supp. 1943 § 3781. (ii) RCW 61.04.040; 1943 c 76 § 1; 1899 c 98 § 3; Rem. Supp. 1943 § 3782. (iii) RCW 61.04.050; 1899 c 98 § 4; RRS § 3783. (iv) RCW 61.20.130; 1943 c 71 § 13; Rem. Supp. 1943 § 11548-42. (v) RCW 63.12.020; 1933 c 129 § 2; 1903 c 6 § 2; 1893 c 106 § 2; RRS § 3791. (vi) RCW 63.16.040 through 63.16.060; 1947 c 8 §§ 4 through 6; Rem. Supp. 1947 §§ 2721-4 through 2721-6.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

Severability—**Effective date**—1977 ex.s. c 117: See notes following RCW 43.07.150.

Emergency—**Effective date**—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-404 Termination statement. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with subsection (2) of RCW 62A.9-405, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. If he has received the termination statement in duplicate, he shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has substituted a copy by microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may destroy the originals at any time, and shall retain the substituted microfilm or other photographic record for one year after receipt of the termination statement.

(3) There shall be no fee for filing and indexing a termination statement including sending or delivering the financing statement. [1982 c 186 § 7; 1981 c 41 § 28; 1979 c 158 § 213; 1977 ex.s. c 117 § 9; 1967 c 114 § 6; 1965 ex.s. c 157 § 9-404. Cf. former RCW sections: (i) RCW 61.16.040; 1959 c 263 § 12; 1953 c 214 § 4; 1943 c 284 § 4; 1937 c 133 § 1; 1899 c 98 § 8; Rem. Supp. 1943 § 3787. (ii) RCW 61.16.050; 1937 c 133 § 2 (adding to 1899 c 98 a new section, § 9); RRS § 3787-1. (iii) RCW 61.16.070; 1937 c 133 § 2 (adding to 1899 c 98 a new section, § 11); RRS § 3787-3. (iv) RCW 63.16.070; 1947 c 8 § 7; Rem. Supp. 1947 § 2721-7.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

Severability—**Effective date**—1977 ex.s. c 117: See notes following RCW 43.07.150.

Emergency—**Effective date**—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-405 Assignment of security interest; duties of filing officer; fees. (1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement, the filing officer shall mark, hold, and process the same as provided in RCW 62A.9-403(4). The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment on a form conforming to standards prescribed by the department of licensing shall be four dollars, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee shall be seven dollars.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark, hold, and process the statement the same as provided in RCW 62A.9-403(4). He shall note the assignment on the index of the financing statement or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of RCW 62A.9-103, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name

of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment on a form conforming to standards prescribed by the department shall be four dollars, but if the form of the financing statement does not conform to the standards prescribed by the department the uniform fee shall be seven dollars. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of RCW 62A.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this Title.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record. [1982 c 186 § 8; 1981 c 41 § 29; 1979 c 158 § 214; 1977 ex.s. c 117 § 10; 1967 c 114 § 7; 1965 ex.s. c 157 § 9-405. Cf. former RCW sections: (i) RCW 61-16.040; 1959 c 263 § 12; 1953 c 214 § 4; 1943 c 284 § 4; 1937 c 133 § 1; 1899 c 98 § 8; Rem. Supp. 1943 § 3787. (ii) RCW 61.16.050; 1937 c 133 § 2 (adding to 1899 c 98 a new section, § 9); RRS § 3787-1.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

Severability—**Effective date**—1977 ex.s. c 117: See notes following RCW 43.07.150.

Emergency—**Effective date**—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-406 Release of collateral; duties of filing officer; fees. A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of RCW 62A.9-405, including payment of the required fee. Upon presentation of such a statement of release, the filing officer shall mark, hold, and process the statement the same as provided in RCW 62A.9-403(4). The uniform fee for filing and noting such a statement of release on a form conforming to standards prescribed by the department of licensing shall be four dollars, but if the form of the statement does not conform to the standards prescribed by the department the uniform fee shall be seven dollars. [1982 c 186 § 9; 1981 c 41 § 30; 1979 c 158 § 215; 1977 ex.s. c 117 § 11; 1967 c 114 § 9; 1965 ex.s. c 157 § 9-406. Cf. former RCW sections: (i) RCW 61-.04.010; 1929 c 156 § 1; 1899 c 98 § 1; RRS § 3779; cf. 1881 § 1986; 1879 p 104 § 1; 1877 p 286 § 1; 1875 p 43 § 1. (ii) RCW 61.16.040; 1959 c 263 § 12; 1953 c 214 §

4; 1943 c 284 § 4; 1937 c 133 § 1; 1899 c 98 § 8; Rem. Supp. 1943 § 3787.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

Severability—**Effective date**—1977 ex.s. c 117: See notes following RCW 43.07.150.

Emergency—**Effective date**—1967 c 114: See note following RCW 62A.4-406.

Transitory provisions regarding transfer of UCC powers, duties and functions of secretary of state to department of licensing: See notes following RCW 43.07.150.

62A.9-407 Information from filing officer. (1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the department of licensing shall issue its certificate showing whether there is on file with the department of licensing on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be four dollars regardless of whether the request for the certificate is in the standard form prescribed by the department of licensing or otherwise. Upon request the department of licensing shall issue its certificate and shall furnish a copy of any filed financing statements or statements of assignment for a uniform fee of eight dollars for each particular debtor's statements requested. [1982 c 186 § 10; 1981 c 41 § 31; 1967 c 114 § 10; 1965 ex.s. c 157 § 9-407.]

Effective date—1982 c 186: See note following RCW 62A.9-203.

Effective date—1981 c 41: See RCW 62A.11-101.

Emergency—**Effective date**—1967 c 114: See note following RCW 62A.4-406.

Duty of secretary of state to furnish copies of filed, deposited or recorded instruments: RCW 43.07.030.

Title 63

PERSONAL PROPERTY

Chapters

63.28 Uniform disposition of unclaimed property.

Chapter 63.28

UNIFORM DISPOSITION OF UNCLAIMED PROPERTY

Sections

63.28.080	Property presumed abandoned—Banking, financial organizations or business associations.
63.28.090	Property presumed abandoned—Life insurance corporations.
63.28.100	Property presumed abandoned—Utilities.
63.28.130	Property presumed abandoned—Intangible personality held in fiduciary capacity.

- 63.28.140 Property presumed abandoned—Intangible personalty held by court, public body or official, etc.
 63.28.150 Property presumed abandoned—Intangible personalty not otherwise covered by chapter.
 63.28.921 Severability—1981 2nd ex.s. c 1.

63.28.080 Property presumed abandoned—Banking, financial organizations or business associations. The following property held or owing by a banking or financial organization or business association is presumed abandoned:

(1) Any demand, savings, or matured time deposit made in this state with a banking organization, together with any interest or dividend which has accrued thereon, excluding any charges that may lawfully be withheld, unless the owner has, within five years:

(a) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(b) Corresponded in writing with the banking organization concerning the deposit; or

(c) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

(2) Any funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit made therewith in this state, and any interest or dividend which has accrued thereon, excluding any charges that may lawfully be withheld, unless the owner has within five years:

(a) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(b) Corresponded in writing with the financial organization concerning the funds or deposit; or

(c) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

(3) Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, and traveler's checks, that, with the exception of traveler's checks, has been outstanding for more than five years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks, that has been outstanding for more than fifteen years from the date of issuance, unless the owner has within five years, or within fifteen years in the case of traveler's checks, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization. [1981 2nd ex.s. c 1 § 1; 1975-'76 2nd ex.s. c 59 § 1; 1955 c 385 § 2.]

63.28.090 Property presumed abandoned—Life insurance corporations. (1) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the

person entitled to the funds is within this state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

(2) "Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than five years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding five years, (a) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (b) corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required. [1981 2nd ex.s. c 1 § 2; 1955 c 385 § 3.]

63.28.100 Property presumed abandoned—Utilities. The following funds held or owing by any utility are presumed abandoned:

(1) Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than one year after the termination of the services for which the deposit or advance payment was made.

(2) Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than one year after the date it became payable in accordance with the final determination or order providing for the refund. [1981 2nd ex.s. c 1 § 3; 1955 c 385 § 4.]

63.28.130 Property presumed abandoned—Intangible personalty held in fiduciary capacity. All intangible personal property and any income or increment which has accrued thereon, held in fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within five years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded

in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

(1) If the property is held by a business association, banking organization, or financial organization organized under the laws of or created in this state; or

(2) If it is held by a business association, banking organization, or financial organization doing business in this state, but not organized under the laws of or created in this state, and the records of the business association, banking organization, or financial organization indicate that the last known address of the person entitled thereto is in this state; or

(3) If it is held in this state by any other person. [1981 2nd ex.s. c 1 § 4; 1955 c 385 § 7.]

63.28.140 Property presumed abandoned—Intangible personalty held by court, public body or official, etc. All intangible personal property held for the owner by any court, public corporation, public authority, or public officer of this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than one year is presumed abandoned. [1981 2nd ex.s. c 1 § 5; 1955 c 385 § 8.]

63.28.150 Property presumed abandoned—Intangible personalty not otherwise covered by chapter. All intangible personal property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable is presumed abandoned: *Provided, however,* That this section shall not apply to safe deposit companies. [1981 2nd ex.s. c 1 § 6; 1955 ex.s. c 11 § 1; 1955 c 385 § 9.]

63.28.921 Severability—1981 2nd ex.s. c 1. If any provision of this 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. [1981 2nd ex.s. c 1 § 8.]

Title 64

REAL PROPERTY AND CONVEYANCES

Chapters

64.40 Property rights—Damages from governmental actions.

Chapter 64.40

PROPERTY RIGHTS—DAMAGES FROM GOVERNMENTAL ACTIONS

Sections

64.40.010 Definitions—Defense in action for damages.
64.40.020 Applicant for permit—Actions for damages from governmental actions.

64.40.030 Commencement of action—Time limitation.
64.40.040 Remedies cumulative.
64.40.900 Severability—1982 c 232.

64.40.010 Definitions—Defense in action for damages. As used in this chapter, the terms in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Agency" means the state of Washington, any of its political subdivisions, including any city, town, or county, and any other public body exercising regulatory authority or control over the use of real property in the state.

(2) "Permit" means any governmental approval required by law before an owner of a property interest may improve, sell, transfer, or otherwise put real property to use.

(3) "Property interest" means any interest or right in real property in the state.

(4) "Damages" means reasonable expenses and losses, other than speculative losses or profits, incurred between the time a cause of action arises and the time a holder of an interest in real property is granted relief as provided in RCW 64.40.020. Damages must be caused by an act, necessarily incurred, and actually suffered, realized, or expended, but are not based upon diminution in value of or damage to real property, or litigation expenses.

(5) "Regulation" means any ordinance, resolution, or other rule or regulation adopted pursuant to the authority provided by state law, which imposes or alters restrictions, limitations, or conditions on the use of real property.

(6) "Act" means a final decision by an agency which places requirements, limitations, or conditions upon the use of real property in excess of those allowed by applicable regulations in effect on the date an application for a permit is filed. "Act" also means the failure of an agency to act within time limits established by law in response to a property owner's application for a permit: *Provided,* That there is no "act" within the meaning of this section when the owner of a property interest agrees in writing to extensions of time, or to the conditions or limitations imposed upon an application for a permit. "Act" shall not include lawful decisions of an agency which are designed to prevent a condition which would constitute a threat to the health, safety, welfare, or morals of residents in the area.

In any action brought pursuant to this chapter, a defense is available to a political subdivision of this state that its act was mandated by a change in statute or state rule or regulation and that such a change became effective subsequent to the filing of an application for a permit. [1982 c 232 § 1.]

64.40.020 Applicant for permit—Actions for damages from governmental actions. (1) Owners of a property interest who have filed an application for a permit have an action for damages to obtain relief from acts of an agency which are arbitrary, capricious, unlawful, or exceed lawful authority, or relief from a failure to act within time limits established by law: *Provided,* That the action is unlawful or in excess of lawful authority only if

the final decision of the agency was made with knowledge of its unlawfulness or that it was in excess of lawful authority, or it should reasonably have been known to have been unlawful or in excess of lawful authority.

(2) The prevailing party in an action brought pursuant to this chapter may be entitled to reasonable costs and attorney's fees.

(3) No cause of action is created for relief from unintentional procedural or ministerial errors of an agency.

(4) Invalidation of any regulation in effect prior to the date an application for a permit is filed with the agency shall not constitute a cause of action under this chapter. [1982 c 232 § 2.]

64.40.030 Commencement of action—Time limitation. Any action to assert claims under the provisions of this chapter shall be commenced only within thirty days after all administrative remedies have been exhausted. [1982 c 232 § 3.]

64.40.040 Remedies cumulative. The remedies provided by this chapter are in addition to any other remedies provided by law. [1982 c 232 § 4.]

64.40.900 Severability—1982 c 232. 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. [1982 c 232 § 5.]

Title 66

ALCOHOLIC BEVERAGE CONTROL

Chapters

- 66.04** Definitions.
- 66.12** Exemptions.
- 66.20** Liquor permits.
- 66.24** Licenses—Stamp taxes.
- 66.28** Miscellaneous regulatory provisions.

Chapter 66.04 DEFINITIONS

Sections

- 66.04.010 Definitions.

66.04.010 Definitions. In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Beer" means any malt beverage or malt liquor as these terms are defined in this chapter.

(3) "Brewer" means any person engaged in the business of manufacturing beer and malt liquor.

(4) "Board" means the liquor control board, constituted under this title.

(5) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(6) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(7) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(8) "Distiller" means a person engaged in the business of distilling spirits.

(9) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(10) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(11) "Employee" means any person employed by the board, including a vendor, as hereinafter in this section defined.

(12) "Fund" means 'liquor revolving fund.'

(13) "Hotel" means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board, with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: *Provided further*, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms.

(14) "Imprisonment" means confinement in the county jail.

(15) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol

by weight shall be conclusively deemed to be intoxicating.

(16) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(17) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(18) "Package" means any container or receptacle used for holding liquor.

(19) "Permit" means a permit for the purchase of liquor under this title.

(20) "Person" means an individual, copartnership, association, or corporation.

(21) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(22) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(23) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(24) "Regulations" means regulations made by the board under the powers conferred by this title.

(25) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(26) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a

sale or selling within the state to a foreign consignee or his agent in the state.

(27) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(28) "Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding twenty-four percent of alcohol by volume.

(29) "Store" means a state liquor store established under this title.

(30) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(31) "Vendor" means a person employed by the board as a store manager under this title.

(32) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(33) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(34) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume.

(35) "Beer wholesaler" means a person who buys beer from a brewer or brewery located either within or beyond the boundaries of the state for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(36) "Wine wholesaler" means a person who buys wine from a vintner or winery located either within or beyond the boundaries of the state for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent. [1982 c 39 § 1; 1981 1st ex.s. c 5 § 1; 1980 c 140 § 3; 1969 ex.s. c 21 § 13; 1935 c 158 § 1; 1933 ex.s. c 62 § 3; RRS § 7306-3. Formerly RCW 66.04.010 through 66.04.380.]

Severability—1982 c 39: "If any provision of this 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." [1982 c 39 § 3.]

Severability—**Effective date**—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Effective date—1969 ex.s. c 21: "The effective date of this 1969 amendatory act is July 1, 1969." [1969 ex.s. c 21 § 15.] This applies to RCW 66.04.010, 66.24.160, 66.24.200, 66.24.210, 66.24.230, 66.24.310, 66.28.025, 66.28.030, 66.28.040, 66.28.050, 66.24.204, 66.24.206, 82.08.150, and 82.08.160.

Chapter 66.12 EXEMPTIONS

Sections

66.12.140 Use of alcoholic beverages in culinary, restaurant, or food fermentation courses.

66.12.150 Beer or wine offered by hospital or nursing home for consumption on the premises.

66.12.140 Use of alcoholic beverages in culinary, restaurant, or food fermentation courses. (1) Nothing in this title shall prevent the use of beer, wine, and/or spirituous liquor, for cooking purposes only, in conjunction with a culinary or restaurant course offered by a college, university, community college, area vocational technical institute, or private vocational school. Further, nothing in this title shall prohibit the making of beer or wine in food fermentation courses offered by a college, university, community college, area vocational technical institute, or private vocational school.

(2) "Culinary or restaurant course" as used in this section means a course of instruction which includes practical experience in food preparation under the supervision of an instructor who is twenty-one years of age or older.

(3) Persons under twenty-one years of age participating in culinary or restaurant courses may handle beer, wine, or spirituous liquor for purposes of participating in the courses, but nothing in this section shall be construed to authorize consumption of liquor by persons under twenty-one years of age or to authorize possession of liquor by persons under twenty-one years of age at any time or place other than while preparing food under the supervision of the course instructor.

(4) Beer, wine, and/or spirituous liquor to be used in culinary or restaurant courses shall be purchased at retail from the board or a retailer licensed under this title. All such liquor shall be securely stored in the food preparation area and shall not be displayed in an area open to the general public.

(5) Colleges, universities, community colleges, area vocational technical institutes, and private vocational schools shall obtain the prior written approval of the board for use of beer, wine, and/or spirituous liquor for cooking purposes in their culinary or restaurant courses. [1982 c 85 § 8.]

66.12.150 Beer or wine offered by hospital or nursing home for consumption on the premises. Nothing in this title shall apply to or prevent a hospital, as defined in RCW 70.39.020, or a nursing home as defined in RCW 18.51.010, from offering or supplying without charge beer or wine by the individual glass to any patient, member of a patient's family, or patient visitor, for consumption on the premises: *Provided*, That such patient, family member, or visitor shall be at least twenty-one years of age, and that the beer or wine shall be purchased under this title. [1982 c 85 § 9.]

Chapter 66.20 LIQUOR PERMITS

Sections
66.20.010 Permits classified—Issuance—Fees.

66.20.010 Permits classified—Issuance—Fees. Upon application in the prescribed form being made to

any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee shall issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit;

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit;

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special import permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit;

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation at prices to be fixed by the board;

(8) Where the application is for a special permit by a manufacturer, importer, wholesaler, or agent thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a class H licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, wholesaler, or agent thereof, to donate liquor for a reception, breakfast, luncheon, or

dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a class H licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210. [1982 c 85 § 1; 1975-'76 2nd ex.s. c 62 § 2; 1959 c 111 § 2; 1951 2nd ex.s. c 13 § 1; 1933 ex.s. c 62 § 12; RRS § 7306-12.]

Chapter 66.24

LICENSES—STAMP TAXES

Sections

66.24.010	Issuance, transferability, refusal, suspension, or cancellation—Grounds, hearings, procedure—Duration of licenses or certificates of approval—Conditions and restrictions—Posting—Notice to local authorities—Proximity to churches, schools, etc.
66.24.170	Domestic winery license—Fee—Report—Wine wholesaler's and retailer's licenses included.
66.24.210	Imposition of tax on all wines sold to wine wholesalers and liquor control board—Temporary additional tax imposed.
66.24.240	Brewers' license—Fee.
66.24.290	Authorized, prohibited sales by brewer or wholesaler—Monthly report of sales—Added tax on gallonage—Penalty for late tax payment—Revenue stamps—Temporary additional tax.
66.24.425	Liquor by the drink, class H licenses—Restaurants not serving the general public.
66.24.500	Special occasion wine retailer's license—Class J—Fee—Additional fee for selling wine not consumed on premises—Regulations.
66.24.550	Gift wine service retailer's license—Class P—Fee—Limitations.

66.24.010 Issuance, transferability, refusal, suspension, or cancellation—Grounds, hearings, procedure—Duration of licenses or certificates of approval—Conditions and restrictions—Posting—Notice to local authorities—Proximity to churches, schools, etc. (1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license, the liquor control board may consider any prior criminal conduct of the applicant and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. The board may, in its discretion, grant or refuse the license applied for. No retail license of any kind may be issued to:

(a) A person who has not resided in the state for at least one month prior to making application, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(d) A corporation, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be. The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

Witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.04.105, as now or hereafter amended. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of the period of suspension, with a memorandum of the suspension written or stamped upon the face thereof in red ink. The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5) The board shall assign to each business an expiration date for all licenses or certificates of approval covered by this title. Following the assignment, unless sooner canceled, every license or certificate of approval issued by the board shall expire at midnight of the last day of the month on the twelfth month subsequent to issue.

(a) Each business shall be assigned a license or certificate of approval expiration date according to the schedule following below in this subsection. Fees for such licenses or certificates of approval shall be charged at full annual rate as outlined in chapter 66.24 RCW. The board shall prorate license or certificate of approval fees as necessary to implement the reassignment of expiration dates and to maintain the date assignment of each.

(i) New applicants; last day of the month of approval and issuance.

(ii) Existing business; distributed evenly on a monthly basis throughout the year.

(iii) New businesses; expiration date shall be adjusted as required to conform to a date simultaneous to the majority of the applicant's business branches.

(iv) Supplemental license(s); shall expire on the same date as the master.

(b) The board will consider requests from applicants for exceptions to assigned renewal dates. Approval shall be at the discretion of the board.

(c) All applications shall be submitted with a full year's fee for the type of license or certificate of approval for which the type of application is intended.

(d) All licenses or certificates of approval presently issued and covered under this title unless sooner discontinued or canceled shall be assigned not later than July 1, 1983, a license expiration date.

(e) Licenses issued under the provisions of RCW 66.24.310, as now or hereafter amended, are excluded from provisions of this subsection and unless sooner canceled shall expire at midnight of the thirtieth day of June of the fiscal year for which issued.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by the regulations in force from time to time.

(7) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(8) Before the board shall issue a license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application be for a license within an incorporated city or town, or to the county legislative authority, if the application be for a license outside the boundaries of incorporated cities or towns; and such incorporated city or town, through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the board within twenty days after date of transmittal of such notice, written objections against the applicant or against the premises for which the license is asked, and shall include with such objections a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the liquor control board may in its discretion hold a formal hearing subject to the applicable provisions of Title 34 RCW, as now or hereafter amended. Upon the granting of a license under this title the board shall send a duplicate of the license or written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if

the license is granted outside the boundaries of incorporated cities or towns.

(9) Before the board issues any license to any applicant, it shall give (a) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and (b) written notice by certified mail of the application to churches, schools, and public institutions within five hundred feet of the premises to be licensed. The board shall issue no beer retailer license class A, B, D, or E or wine retailer license class C or F or class H license covering any premises not now licensed, if such premises are within five hundred feet of the premises of any church, parochial, or tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the outer property line of the church or school grounds to the nearest public entrance of the premises proposed for license, and if, after receipt by the school, church, or public institution of the notice as provided in this subsection, the board receives written notice, within twenty days after posting such notice, from an official representative or representatives of the schools and/or churches within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school or church. For the purpose of this section, church shall mean a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith.

(10) The restrictions set forth in the preceding subsection shall not prohibit the board from authorizing the transfer of existing licenses now located within the restricted area to other persons or locations within the restricted area: *Provided*, Such transfer shall in no case result in establishing the licensed premises closer to a church or school than it was before the transfer. [1982 c 85 § 2; 1981 1st ex.s. c 5 § 10; 1981 c 67 § 31; 1974 ex.s. c 66 § 1; 1973 1st ex.s. c 209 § 10; 1971 c 70 § 1; 1969 ex.s. c 178 § 3; 1947 c 144 § 1; 1935 c 174 § 3; 1933 ex.s. c 62 § 27; Rem. Supp. 1947 § 7306-27. Formerly RCW 66.24.010, part and 66.24.020 through 66.24.100. Former part of section: 1937 c 217 § 1 (23U) now codified as RCW 66.24.025.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Severability—Effective date—1973 1st ex.s. c 209: See notes following RCW 66.08.070.

Effective date—1971 c 70: "The effective date of this 1971 amendatory act is July 1, 1971." [1971 c 70 § 4.] This applies to RCW 66.24.010, 66.24.025 and the repeal of RCW 66.24.110.

66.24.170 Domestic winery license—Fee—Report—Wine wholesaler's and retailer's licenses included. (1) There shall be a license to domestic wineries; fee to be computed only on the liters manufactured: One hundred thousand liters or less per year, one hundred dollars per year; over one hundred thousand liters to

seven hundred fifty thousand liters per year, four hundred dollars per year; and over seven hundred fifty thousand liters per year, eight hundred dollars per year.

(2) Any applicant for a domestic winery license shall, at the time of filing application for license, accompany such application with a license fee based upon a reasonable estimate of the amount of wine liters to be manufactured by such applicant. Persons holding domestic winery licenses shall report annually at the end of each fiscal year, at such time and in such manner as the board may prescribe, the amount of wine manufactured by them during the fiscal year. If the total amount of wine manufactured during the year exceeds the amount permitted annually by the license fee already paid the board, the licensee shall pay such additional license fee as may be unpaid in accordance with the schedule provided in this section.

(3) Any domestic winery licensed under this section shall also be considered as holding, for the purposes of selling wines of its own production, a current wine wholesaler's license under RCW 66.24.200 and a wine retailer's license, class F, under RCW 66.24.370 without further application or fee. Any winery operating as a wholesaler or retailer under this subsection shall comply with the applicable laws and rules relating to such wholesalers and retailers. [1982 c 85 § 4; 1981 1st ex.s. c 5 § 31; 1939 c 172 § 1 (23C); 1937 c 217 § 1 (23C) (adding new section 23-C to 1933 ex.s. c 62); RRS § 7306-23C. Formerly RCW 66.24.170, 66.24.180 and 66.24.190.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66-98.090 and 66.98.100.

66.24.210 Imposition of tax on all wines sold to wine wholesalers and liquor control board—Temporary additional tax imposed. (1) There is hereby imposed upon all wines sold to wine wholesalers and the Washington state liquor control board, within the state a tax at the rate of twenty and one-fourth cents per liter: *Provided, however,* That wine sold or shipped in bulk from one winery to another winery shall not be subject to such tax. The tax provided for in this section may, if so prescribed by the board, be collected by means of stamps to be furnished by the board, or by direct payments based on wine purchased by wine wholesalers. Every person purchasing wine under the provisions of this section shall on or before the twentieth day of each month report to the board all purchases during the preceding calendar month in such manner and upon such forms as may be prescribed by the board, and with such report shall pay the tax due from the purchases covered by such report unless the same has previously been paid. Any such purchaser of wine whose applicable tax payment is not postmarked by the twentieth day following the month of purchase will be assessed a penalty at the rate of two percent a month or fraction thereof. If this tax be collected by means of stamps, every such person shall procure from the board revenue stamps representing the tax in such form as the board shall prescribe and shall affix the same to the package or container in such manner and in such denomination as required by the board and

shall cancel the same prior to the delivery of the package or container containing the wine to the purchaser. If the tax is not collected by means of stamps, the board may require that every such person shall execute to and file with the board a bond to be approved by the board, in such amount as the board may fix, securing the payment of the tax. If any such person fails to pay the tax when due, the board may forthwith suspend or cancel the license until all taxes are paid.

(2) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month. [1982 1st ex.s. c 35 § 23; 1981 1st ex.s. c 5 § 12; 1973 1st ex.s. c 204 § 2; 1969 ex.s. c 21 § 3; 1943 c 216 § 2; 1939 c 172 § 3; 1935 c 158 § 3 (adding new section 24-A to 1933 ex.s. c 62); Rem. Supp. 1943 § 7306-24A. Formerly RCW 66.04.120, 66.24.210, part, 66.24.220 and 66.24.230, part. FORMER PART OF SECTION: 1933 ex.s. c 62 § 25, part, now codified as RCW 66.24.230.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66-98.090 and 66.98.100.

Floor stocks tax: "There is hereby imposed upon every licensed wine wholesaler who possesses wine for resale upon which the tax has not been paid under section 2 of this 1973 amendatory act, a floor stocks tax of sixty-five cents per wine gallon on wine in his possession or under his control on June 30, 1973. Each such wholesaler shall within twenty days after June 30, 1973, file a report with the Washington State liquor control board in such form as the board may prescribe, showing the wine products on hand July 1, 1973, converted to gallons thereof and the amount of tax due thereon. The tax imposed by this section shall be due and payable within twenty days after July 1, 1973, and thereafter bear interest at the rate of one percent per month." [1973 1st ex.s. c 204 § 3.]

Effective date—1973 1st ex.s. c 204: See note following RCW 82.08.150.

Effective date—1969 ex.s. c 21: See note following RCW 66.04.010.

Giving away of liquor prohibited—Exceptions: RCW 66.28.040.

66.24.240 Brewers' license—Fee. There shall be a license to brewers to manufacture malt liquors, fee per annum to be based on current fiscal year's production at the rate of fifty dollars per thousand barrels, with a maximum fee of two thousand dollars, such license fee to be collected and paid under such rules and regulations as the board shall prescribe. [1982 c 85 § 5; 1981 1st ex.s. c 5 § 13; 1937 c 217 § 1 (23B) (adding new section 23-B to 1933 ex.s. c 62); RRS § 7306-23B.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66-98.090 and 66.98.100.

66.24.290 Authorized, prohibited sales by brewer or wholesaler—Monthly report of sales—Added tax on gallonage—Penalty for late tax payment—Revenue stamps—Temporary additional tax. (1) Any brewer or beer wholesaler licensed under this title may sell and deliver beer to holders of authorized licenses direct, but

to no other person, other than the board; and every such brewer or beer wholesaler shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer within the state a tax of two dollars and sixty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer shall pay a tax computed in gallons at the rate of two dollars and sixty cents per barrel of thirty-one gallons. Any brewer or beer wholesaler whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Each such brewer or wholesaler shall procure from the board revenue stamps representing such tax in form prescribed by the board and shall affix the same to the barrel or package in such manner and in such denominations as required by the board, and shall cancel the same prior to commencing delivery from his place of business or warehouse of such barrels or packages. Beer shall be sold by brewers and wholesalers in sealed barrels or packages. The revenue stamps herein provided for need not be affixed and canceled in the making of resales of barrels or packages already taxed by the affixation and cancellation of stamps as provided in this section.

(2) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.

(3) The tax imposed under this section shall not apply to "strong beer" as defined in this title. [1982 1st ex.s. c 35 § 24; 1981 1st ex.s. c 5 § 16; 1965 ex.s. c 173 § 30; 1933 ex.s. c 62 § 24; RRS § 7306-24.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Severability—1965 ex.s. c 173: See note following RCW 82.98.030.

Giving away of liquor prohibited—Exceptions: RCW 66.28.040.

66.24.425 Liquor by the drink, class H licenses—Restaurants not serving the general public. (1) The board may, in its discretion, issue a class H license to a business which qualifies as a "restaurant" as that term is defined in RCW 66.24.410 in all respects except that the business does not serve the general public but, through membership qualification, selectively restricts admission to the business. For purposes of RCW 66.24.400 and 66.24.420, all licenses issued under this section shall be considered class H restaurant licenses and shall be subject to all requirements, fees, and qualifications in this title, or in rules adopted by the board, as are applicable to class H restaurant licenses generally except that no service to the general public may be required.

(2) No license shall be issued under this section to a business:

(a) Which shall not have been in continuous operation for at least one year immediately prior to the date of its application; or

(b) Which denies membership or admission to any person because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap. [1982 c 85 § 3.]

66.24.500 Special occasion wine retailer's license—Class J—Fee—Additional fee for selling wine not consumed on premises—Regulations. There shall be a wine retailer's license to be designated as class J; a special license to a society or organization to sell wine at special occasions at a specified date and place; fee twenty dollars per day. Sale, service, and consumption of wine is to be confined to specified premises or designated areas only: *Provided*, That a holder of a class J license shall be permitted to sell at no more than two licensed events each year to members and guests in attendance at the special occasion limited quantities of wine in unopened bottles and original packages, not to be consumed on the premises where sold, by paying an additional fee of ten dollars per day. The board shall adopt appropriate regulations pursuant to chapter 34.04 RCW for the purpose of carrying out the provisions of this section. [1982 c 85 § 6. Prior: 1981 1st ex.s. c 5 § 46; 1981 c 287 § 1; 1973 1st ex.s. c 209 § 18; 1969 ex.s. c 178 § 9.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Effective date—1981 c 287: See note following RCW 66.24.375.

Severability—Effective date—1973 1st ex.s. c 209: See notes following RCW 66.08.070.

"Society or organization" and "nonprofit organization" defined for certain purposes: RCW 66.24.375.

66.24.550 Gift wine service retailer's license—Class P—Fee—Limitations. There shall be a special gift wine service retailer's license to be designated as class P to solicit, take orders for, sell and deliver wine in bottles and original packages to persons other than the person placing the order. A class P license may be issued only to a business solely engaged in the delivery of gifts at retail which holds no other class of license under this title. The fee for this license is seventy-five dollars per year. Delivery of wine under a class P license shall be made in accordance with all applicable provisions of this title and the rules of the board, and no wine so delivered shall be opened on any premises licensed under this title. A class P license does not authorize door-to-door solicitation of gift wine delivery orders or the delivery of more than one bottle of wine to the same address in any twenty-four hour period. [1982 c 85 § 10.]

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— Exceptions.
66.28.020	Repealed.
66.28.025	Repealed.
66.28.040	Giving away of liquor prohibited—Exceptions.
66.28.050	Solicitation of orders prohibited—Exceptions.
66.28.120	Malt liquor to be labeled—Contents.
66.28.150	Breweries, wineries, and wholesalers authorized to conduct courses of instruction on beer and wine.

66.28.010 Manufacturers, importers and wholesalers barred from interest in retail business or location—Advances prohibited—"Financial interest" defined—

Exceptions. (1) No manufacturer, importer, or wholesaler, or person financially interested, directly or indirectly, in such business, whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, nor shall any manufacturer, importer, or wholesaler own any of the property upon which such licensed persons conduct their business, nor shall any such licensed person, under any arrangement whatsoever, conduct his business upon property in which any manufacturer, importer, or wholesaler has any interest. Except as provided in subsection (3) of this section, no manufacturer, importer, or wholesaler shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth: *Provided*, That "person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, or wholesaler as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. No manufacturer, importer, or wholesaler shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, or wholesaler sell at retail any liquor as herein defined: *Provided*, That 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: *Provided further*, That nothing in this section shall prohibit a licensed brewer or domestic winery, or a lessee of a licensed brewer or domestic winery, from being licensed as a class H restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a class H premises on the property on which the primary manufacturing facility of the licensed brewer or domestic winery is located or on contiguous property owned by the licensed brewer or domestic winery as prescribed by regulations adopted by the board pursuant to chapter 34.04 RCW.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock

ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.04 RCW manufacturers, wholesalers and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or wholesaler from providing services to a class G or J retail licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring or dispensing of wine at a wine tasting exhibition or judging event, or (iii) a class G or J retail licensee from receiving any such services as may be provided by a manufacturer, importer, or wholesaler: *Provided*, That nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.04 RCW. [1982 c 85 § 7; 1977 ex.s. c 219 § 2; 1975-'76 2nd ex.s. c 74 § 3; 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.]

Effective date—1975-'76 2nd ex.s. c 74: See note following RCW 66.24.310.

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Giving away of liquor prohibited—Exceptions: RCW 66.28.040.

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

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

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 nor in RCW 66.28.010 or *66.28.025 shall prevent a brewer, wholesaler, winery, or importer from furnishing samples of beer or wine to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210; 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; nothing in this section shall prevent a brewery, winery, or wholesaler from furnishing beer or wine for instructional purposes under RCW 66.28.150; nothing in this section shall prevent a winery or wholesaler from furnishing wine without charge to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and any wine so furnished shall be used solely for such educational purposes, provided that the wine furnished shall be subject to the taxes imposed by RCW 66.24.210; 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. [1982 1st ex.s. c 26 § 2; 1981 c 182 § 2; 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.]

***Reviser's note:** RCW 66.28.025 was repealed by 1982 c 85 § 12.

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

Effective date—1969 ex.s. c 21: See note following RCW 66.04.010.

66.28.050 Solicitation of orders prohibited—Exceptions. No person shall canvass for, solicit, receive, or take orders for the purchase or sale of any liquor, or act as agent for the purchase or sale of liquor except as authorized by RCW 66.24.310 as now or hereafter amended or by RCW 66.24.550. Nothing in this section contained shall apply to agents dealing with the board or to the receipt or transmission of a telegram or letter by any telegraph agent or operator or post office employee in the ordinary course of his employment as such agent, operator or employee. [1982 c 85 § 11; 1975-'76 2nd ex.s. c 74 § 2; 1969 ex.s. c 21 § 8; 1937 c 217 § 4; 1933 ex.s. c 62 § 42; RRS § 7306-42.]

Effective date—1975-'76 2nd ex.s. c 74: See note following RCW 66.24.310.

66.28.120 Malt liquor to be labeled—Contents. Every person manufacturing or distributing malt liquor for sale within the state shall put upon all packages containing malt liquor so manufactured or distributed a distinctive label showing the nature of the contents, the name of the person by whom the malt liquor was manufactured, and the place where it was manufactured. For the purpose of this section, the contents of packages containing malt liquor shall be shown by the use of the word "beer," "ale," "malt liquor," "stout," or "porter," on the outside of the packages. [1982 c 39 § 2; 1961 c 36 § 1; 1933 ex.s. c 62 § 44; RRS § 7306-44.]

Severability—1982 c 39: See note following RCW 66.04.010.

66.28.150 Breweries, wineries, and wholesalers authorized to conduct courses of instruction on beer and wine. A brewery, winery, or wholesaler may, without charge, instruct licensees and their employees, or conduct courses of instruction for licensees and their employees, on the subject of beer or wine, including but not limited

to, the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The brewery, winery, or wholesaler may furnish beer or wine and such other equipment, materials, and utensils as may be required for use in connection with the instruction or courses of instruction. The instruction or courses of instruction may be given at the premises of the brewery, winery, or wholesaler, at the premises of a retail licensee, or elsewhere. [1982 1st ex.s. c 26 § 1.]

Title 67

SPORTS AND RECREATION— CONVENTION FACILITIES

(Formerly: Athletics, Sports and Entertainment)

Chapters

- 67.16** Horse racing.
- 67.34** Winter recreation commission.
- 67.38** Cultural arts, stadium and convention districts.
- 67.40** Convention and trade facilities.
- 67.70** State lottery.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 67.16 HORSE RACING

Sections

- 67.16.010 Definitions.
- 67.16.020 Commission to fix time, place, duration of race meets—Race meet license—Participant's license, fee, duration.
- 67.16.050 Application for meet—Issuance of license—Fee—Cancellation, grounds, procedure.
- 67.16.080 Horses to be registered.
- 67.16.090 Races limited to horses of same breed.
- 67.16.102 Additional one percent of gross receipts to be withheld—Payment to owners—Payment of interest on one percent and amount retained by commission under RCW 67.16.100.
- 67.16.105 Gross receipts—Commission's percentage.
- 67.16.130 Nonprofit race meets—Licensing authorized—Fees—Gross receipts, licensee's percentage—Exotic races defined.
- 67.16.180 Quarter horse and Appaloosa races—Disposition of gross receipts—Exotic races defined (as amended by 1982 c 32).
- 67.16.180 Quarter horse, Appaloosa, and Arabian races—Disposition of gross receipts (as amended by 1982 c 132).

Exemptions to commission merchant's act: RCW 20.01.030.

67.16.010 Definitions. Unless the context otherwise requires, words and phrases as used herein shall mean:

"Commission" shall mean the Washington horse racing commission, hereinafter created.

"Person" shall mean and include individuals, firms, corporations and associations.

"Race meet" shall mean and include any exhibition of thoroughbred, quarter horse, appaloosa horse racing, arabian horse racing, or standard bred harness horse racing, where the parimutuel system is used.

Singular shall include the plural, and the plural shall include the singular; and words importing one gender shall be regarded as including all other genders. [1982 c 132 § 1; 1969 c 22 § 1; 1949 c 236 § 1; 1933 c 55 § 1; Rem. Supp. 1949 § 8312-1.]

Reviser's note: Throughout chapter 67.16 RCW the words "this act" (1933 c 55) have been translated to read "this chapter".

Severability—1982 c 132: "If any provision of this 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." [1982 c 132 § 6.]

67.16.020 Commission to fix time, place, duration of race meets—Race meet license—Participant's license, fee, duration. It shall be the duty of the commission, as soon as it is possible after its organization, to prepare and promulgate a complete set of rules and regulations to govern the race meets in this state. It shall determine and announce the place, time and duration of race meets for which license fees are exacted; and it shall be the duty of each person holding a license under the authority of this chapter, and every owner, trainer, jockey, and attendant at any race course in this state, to comply with all rules and regulations promulgated and all orders issued by the commission. It shall be unlawful for any person to hold any race meet without having first obtained and having in force and effect a license issued by the commission as in this chapter provided; and it shall be unlawful for any owner, trainer or jockey to participate in race meets in this state without first securing a license therefor from the state racing commission, the fee for which shall be set by the commission which shall offset the cost of administration and shall not be for a period of more than two years. [1982 c 32 § 1; 1933 c 55 § 4; RRS § 8312-4. Formerly RCW 67.16.020 and 67.16.030.]

Severability—1982 c 32: "If any provision of this 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." [1982 c 32 § 6.]

67.16.050 Application for meet—Issuance of license—Fee—Cancellation, grounds, procedure. Every person making application for license to hold a race meet, under the provisions of this chapter shall file an application with the commission which shall set forth the time, the place, the number of days such meet will continue, and such other information as the commission may require. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue. No person who has been convicted of any crime involving moral turpitude shall be issued a license, nor shall any license be issued to any person who has violated the terms or provisions of this chapter, or any of the rules and regulations of the commission made pursuant thereto, or who has failed to pay to the commission any or all sums required under the provisions of this chapter. The license shall specify the number of days the race meet shall continue and the number of races per day, which shall be not less than six nor more than ten, and for which a fee shall be paid daily in advance of five hundred dollars

for each day for those meets which had gross receipts from parimutuel machines in excess of fifty million dollars in the previous year and two hundred dollars for each day for meets which had gross receipts from parimutuel machines at or below fifty million dollars in the previous year; in addition any newly authorized race meets shall pay two hundred dollars per day for the first year: *Provided*, That if unforeseen obstacles arise, which prevent the holding, or completion of any race meet, the license fee for the meet, or for a portion which cannot be held may be refunded the licensee, if the commission deems the reasons for failure to hold or complete the race meet sufficient. Any unexpired license held by any person who violates any of the provisions of this chapter, or any of the rules or regulations of the commission made pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this chapter, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three days' notice, in writing, shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation. [1982 c 32 § 2; 1973 1st ex.s. c 39 § 1; 1933 c 55 § 6; RRS § 8312-6.]

Severability—1982 c 32: See note following RCW 67.16.020.

67.16.080 Horses to be registered. A quarter horse to be eligible for a race meet herein shall be duly registered with the American Quarter Horse Association. An appaloosa horse to be eligible for a race meet herein shall be duly registered with the National Appaloosa Horse Club or any successor thereto. An arabian horse to be eligible for a race meet herein shall be duly registered with the Arabian Horse Registry of America, or any successor thereto. [1982 c 132 § 2; 1969 c 22 § 2; 1949 c 236 § 3; Rem. Supp. 1949 § 8312-13.]

Severability—1982 c 132: See note following RCW 67.16.010.

67.16.090 Races limited to horses of same breed. In any race meet in which quarter horses, thoroughbred horses, appaloosa horses or arabian horses participate, only horses of the same breed shall be allowed to compete in any individual race. [1982 c 132 § 3; 1969 c 22 § 3; 1949 c 236 § 4; Rem. Supp. 1949 § 8312-14.]

Severability—1982 c 132: See note following RCW 67.16.010.

67.16.102 Additional one percent of gross receipts to be withheld—Payment to owners—Payment of interest on one percent and amount retained by commission under RCW 67.16.100. Notwithstanding any other provision of chapter 67.16 RCW to the contrary the licensee shall withhold and shall pay daily to the commission, in addition to the percentages authorized by RCW 67.16.100 and 67.16.130, as now or hereafter amended, and RCW 67.16.105, one percent of the gross receipts of all parimutuel machines at each race meet which sums shall, at the end of each meet, be paid by the commission to the licensed owners of those horses

finishing first, second, third and fourth Washington bred only at each meet from which the additional one percent is derived in accordance with an equitable distribution formula to be promulgated by the commission prior to the commencement of each race meet: *Provided*, That nothing in this section shall apply to race meets which are nonprofit in nature, or of ten days or less or which have an average daily handle of less than one hundred twenty thousand dollars: *Provided*, That the additional one percent of the gross receipts of all parimutuel machines at each race meet and the amount retained by the commission as specified in RCW 67.16.100 shall be deposited daily in a time deposit by the commission and the interest derived therefrom shall be distributed annually on an equal basis to those race courses at which independent race meets are held which are nonprofit in nature and are of ten days or less: *Provided*, That prior to receiving a payment under this section any new race course shall meet the qualifications set forth in this section for a period of two years: *Provided, further*, That said distributed funds shall be used for the purpose of maintaining and upgrading the respective racing courses and equine quartering areas of said nonprofit meets. The commission shall not permit the licensees to take into consideration the benefits derived from this section in establishing purses. [1982 c 132 § 5; 1979 c 31 § 3; 1977 ex.s. c 372 § 2; 1969 ex.s. c 233 § 3.]

Severability—1982 c 132: See note following RCW 67.16.010.

Severability—1977 ex.s. c 372: See note following RCW 67.16.101.

67.16.105 Gross receipts—Commission's percent-

age. (1) For race meets which have gross receipts of all parimutuel machines averaging more than five hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily four and one-half percent of the gross receipts up to the first five hundred thousand daily of all parimutuel machines at each race meet. All receipts in excess of five hundred thousand dollars shall be paid daily at the rate of five percent.

(2) For race meets which have gross receipts of all parimutuel machines from four hundred thousand one dollars to five hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily four percent of the gross receipts of all parimutuel machines at each race meet.

(3) For race meets which have gross receipts of all parimutuel machines from three hundred thousand one dollars to four hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily three and one-half percent of the gross receipts of all parimutuel machines at each race meet.

(4) For race meets which have gross receipts of all parimutuel machines from two hundred fifty thousand one dollars to three hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily three percent of the gross receipts of all parimutuel machines at each race meet.

(5) For race meets which have gross receipts of all parimutuel machines from two hundred thousand dollars

to two hundred fifty thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily two percent of the gross receipts of all parimutuel machines at each race meet.

(6) For race meets which have gross receipts of all parimutuel machines less than two hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily one percent of the gross receipts of all the parimutuel machines at each race meet. [1982 c 32 § 3; 1979 c 31 § 6.]

Severability—1982 c 32: See note following RCW 67.16.020.

67.16.130 Nonprofit race meets—Licensing authorized—Fees—Gross receipts, licensee's percentage—Exotic races defined. (1) Notwithstanding any other provision of law or of chapter 67.16 RCW, the commission may license race meets which are nonprofit in nature, of ten days or less, and which have an average daily handle of one hundred twenty thousand dollars or less, at a daily licensing fee of ten dollars and a payment to the commission of one percent of the gross receipts of all parimutuel pools during such race meet, and the sponsoring nonprofit association shall be exempt from any other fees as provided for in chapter 67.16 RCW or by rule or regulation of the commission: *Provided*, That the commission on or after January 1, 1971 may deny the application for a license to conduct a racing meet by a nonprofit association, if same shall be determined not to be a nonprofit association by the Washington state racing commission.

(2) Notwithstanding any other provision of law or of chapter 67.16 RCW the licensees of race meets which are nonprofit in nature, of ten days or less, and which have an average daily handle of one hundred twenty thousand dollars or less, shall be permitted to retain fourteen percent of the gross receipts of all parimutuel pools during such race meet; except that exotic races at such meets shall be permitted to retain an additional one percent of the gross receipts of all parimutuel pools during such exotic races with the additional retained amount used for Washington bred breeder awards, not to exceed twenty percent of the winner's share of the purse. Any portion of the remainder of the one percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will not supplant the customary purse structure between racetracks and participating horsemen. As used in this section, "exotic races" means daily doubles, quinellas, trifectas, and exactas. Exotic races are subject to the approval of the commission.

(3) Notwithstanding any other provision of law or of chapter 67.16 RCW or any rule promulgated by the commission, no license for a race meet which is nonprofit in nature, of ten days or less, and which has an average daily handle of one hundred twenty thousand dollars or less, shall be denied for the reason that the applicant has not installed an electric parimutuel tote board.

(4) As a condition to the reduction in fees as provided for in subsection (1) hereof, all fees charged to horse

owners, trainers, or jockeys, or any other fee charged for a permit incident to the running of such race meet shall be retained by the commission as reimbursement for its expenses incurred in connection with the particular race meet. [1982 c 32 § 4; 1979 c 31 § 4; 1969 ex.s. c 94 § 2.]

Severability—1982 c 32: See note following RCW 67.16.020.

Effective date—1969 ex.s. c 94: "This 1969 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 May 1, 1969." [1969 ex.s. c 94 § 3.]

67.16.180 Quarter horse and Appaloosa races—Disposition of gross receipts—Exotic races defined (as amended by 1982 c 32). (1) Race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races, may retain fourteen percent from the gross receipts of any parimutuel machine; except that exotic races at such meets shall be permitted to retain an additional one percent of the gross receipts of all parimutuel pools during such exotic races with the additional retained amount used for Washington bred breeder awards, not to exceed twenty percent of the winner's share of the purse. Any portion of the remainder of the one percent may be used to support the general purse structure of the race meet, except that all such increased revenue to the licensee to be used for purses will be in addition to and will not supplant the customary purse structure between racetracks and participating horsemen. As used in this section, "exotic races" means daily doubles, quinellas, trifectas, and exactas. Exotic races are subject to the approval of the commission.

(2) For race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races, the licensee shall pay to the commission daily one percent of the gross receipts of all parimutuel machines at each race meet. Such one percent shall be paid daily. [1982 c 32 § 5; 1979 c 31 § 7.]

Severability—1982 c 32: See note following RCW 67.16.020.

67.16.180 Quarter horse, Appaloosa, and Arabian races—Disposition of gross receipts (as amended by 1982 c 132). (1) Race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races and/or Arabian races, may retain fourteen percent from the gross receipts of any parimutuel machine.

(2) For race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races and/or Arabian races, the licensee shall pay to the commission daily one percent of the gross receipts of all parimutuel machines at each race meet. Such one percent shall be paid daily. [1982 c 132 § 4; 1979 c 31 § 7.]

Reviser's note: RCW 67.16.180 was amended twice during the 1982 regular session of the legislature, each without reference to the other.

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

Severability—1982 c 132: See note following RCW 67.16.010.

Chapter 67.34

WINTER RECREATION COMMISSION

Sections

67.34.010	Legislative declaration—Commission established—Membership.
67.34.020	Powers and duties.
67.34.900	Abolition of commission—Transfer of powers, duties and functions.
67.34.905	Liberal construction.

67.34.010 Legislative declaration—Commission established—Membership. The legislature recognizes that:

[1982 RCW Supp—page 508]

(1) Interest in outdoor recreation has been steadily increasing, and that the facilities that now exist are inadequate to meet the growing demands of the people of Washington and the out-of-state tourist trade;

(2) The state is becoming a popular winter recreation area and has not fully developed its winter tourism industry adequately to respond to the increasing demand, as has been successfully done in the mountain states, Idaho, and British Columbia;

(3) The state of Washington presently has a flourishing winter recreation industry which adds more than twenty-five thousand new skiers each year. Far greater potential exists for year-round resort development which should include an emphasis on all winter recreation activities. Expansion of the winter recreation industry will attract tourist trade from other states and countries and will have a substantial positive impact on both the state and national economies; and

(4) The economic well-being of the state will be improved upon the introduction of new industry to provide employment, income to the state, and revenue for government.

The legislature recognizes the need to identify areas appropriate for recreational development on state lands or on federal lands which can be exchanged for state lands under state and federal laws.

Therefore, the legislature hereby establishes the Washington state winter recreation commission which shall be composed as follows: Two members of the senate appointed by the president of the senate, including one member from each caucus; two members of the house of representatives appointed by the speaker of the house of representatives, including one member from each caucus; one representative to be appointed by the governor from each of the following state departments: The parks and recreation commission, department of commerce and economic development, and department of natural resources; two representatives of industry appointed by the governor; two representatives of the environmental community appointed by the governor; one representative of cities appointed by the governor; and one representative of counties appointed by the governor. The commission shall choose one of its legislative members as chair.

Commission members and legislative staff shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. Members of the legislature serving on the commission shall be reimbursed for travel expenses under RCW 44.04.120. [1982 1st ex.s. c 27 § 1.]

67.34.020 Powers and duties. The Washington state winter recreation commission shall:

(1) Study and identify potential sites for new winter recreation development, with consideration of the availability and suitability of the land, local interests, environmental impact, and established roads and transportation access.

(2) Facilitate trades of land for existing or new winter recreation areas with the federal government, the United States Department of Agriculture, the United States

Forest Service, the United States Bureau of Land Management, and other agencies which could be involved in exchanges of land.

(3) Recommend the supervisory management structure at the state level which would oversee the lease, maintenance, and development of lands for recreational projects.

(4) Utilize legislative staff assistance which shall be provided by the appropriate legislative committees and conduct such studies as are necessary for the performance of its duties. State agencies may assign to the commission such personnel as are necessary to assist the commission in the performance of its duties.

(5) Consult with federal and state agencies and representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, concerned citizens, and other groups.

(6) Hold such public hearings as are necessary to insure early, meaningful, and continuous public input and involvement in the commission's work.

(7) Propose changes in state law and rules of state agencies, if considered necessary, to carry out the purpose of this chapter.

(8) Establish advisory committees to advise the commission in the performance of its duties. The membership of the advisory committees shall be balanced in terms of the points of view and interests represented. Members of the advisory committees shall serve without compensation of any sort.

(9) Submit an interim report to the legislature by January 10, 1983, on the progress of the commission. [1982 1st ex.s. c 27 § 2.]

67.34.900 Abolition of commission—Transfer of powers, duties and functions. The Washington state winter recreation commission shall cease to exist at midnight, January 1, 1987. Upon the abolition of the commission on January 1, 1987, all powers, duties and functions of the commission shall be transferred to the management structure recommended by the commission under RCW 67.34.020. [1982 1st ex.s. c 27 § 3.]

67.34.905 Liberal construction. This chapter shall be liberally construed to carry out its legislative intent and purpose. [1982 1st ex.s. c 27 § 4.]

Chapter 67.38

CULTURAL ARTS, STADIUM AND CONVENTION DISTRICTS

Sections	
67.38.010	Purpose.
67.38.020	Definitions.
67.38.030	Cultural arts, stadium and convention district— Creation.
67.38.040	Multicounty district—Creation.
67.38.050	Governing body.
67.38.060	Comprehensive plan—Development—Elements.
67.38.070	Comprehensive plan—Review—Approval or disapproval—Resubmission.
67.38.080	Annexation election.
67.38.090	District as quasi municipal corporation—General powers.

67.38.100	Additional powers.
67.38.110	Issuance of general obligation bonds—Maturity— Excess levies.
67.38.120	Revenue bonds—Issuance, sale, term, payment.
67.38.130	Cultural arts, stadium and convention district tax levies.
67.38.140	Contribution of sums for expenses.
67.38.150	Treasurer and auditor—Bond—Duties— Funds—Depositaries.
67.38.160	Dissolution and liquidation.
67.38.900	Captions not law—1982 1st ex.s. c 22.
67.38.905	Severability—1982 1st ex.s. c 22.

67.38.010 Purpose. The legislature finds that expansion of a cultural tourism would attract new visitors to our state and aid the development of a nonpolluting industry. The creation or renovation, and operation of cultural arts, stadium and convention facilities benefiting all the citizens of this state would enhance the recreational industry's ability to attract such new visitors. The additional income and employment resulting therefrom would strengthen the economic base of the state.

It is declared that the construction, modification, renovation, and operation of facilities for cultural arts, stadium and convention uses will enhance the progress and economic growth of this state. The continued growth and development of this recreational industry provides for the general welfare and is an appropriate matter of concern to the people of the state of Washington. [1982 1st ex.s. c 22 § 1.]

67.38.020 Definitions. Unless the context clearly indicates otherwise, for the purposes of this chapter the following definitions shall apply:

(1) "Cultural arts, stadium and convention district," or "district," means a quasi municipal corporation of the state of Washington created pursuant to this chapter.

(2) "Component city" means an incorporated city within a public cultural arts, stadium and convention benefit area.

(3) "City" means any city or town.

(4) "City council" means the legislative body of any city.

(5) "Municipality" means a port district, public school district or community college district. [1982 1st ex.s. c 22 § 2.]

67.38.030 Cultural arts, stadium and convention district—Creation. (1) The process to create a cultural arts, stadium and convention district may be initiated by:

(a) The adoption of a resolution by the county legislative authority calling for a public hearing on the proposed creation of such a district and delineating proposed boundaries of the district; or

(b) The governing bodies of two or more cities located within the same county adopting resolutions calling for a public hearing on the proposed creation of such a district and delineating proposed boundaries of such a district: *Provided*, That this method may not be used more frequently than once in any twelve month period in the same county; or

(c) The filing of a petition with the county legislative authority, calling for a public hearing on the proposed

creation of such a district and delineating proposed boundaries of the district, that is signed by at least ten percent of the registered voters residing in the proposed district at the last general election. Such signatures will be certified by the county auditor or the county elections department.

(2) Within sixty days of the adoption of such resolutions, or presentation of such a petition, the county legislative authority shall hold a public hearing on the proposed creation of such a district. Notice of the hearing shall be published at least once a week for three consecutive weeks in one or more newspapers of general circulation within the proposed boundaries of the district. The notice shall include a general description and map of the proposed boundaries. Additional notice shall also be mailed to the governing body of each city and municipality located all or partially within the proposed district. At such hearing, or any continuation thereof, any interested party may appear and be heard on the formation of the proposed district.

The county legislative authority shall delete the area included within the boundaries of a city from the proposed district if prior to the public hearing the city submits to the county legislative authority a copy of an adopted resolution requesting its deletion from the proposed district. The county legislative authority may delete any other areas from the proposed boundaries. Additional territory may be included within the proposed boundaries, but only if such inclusion is subject to a subsequent hearing, with notice provided in the same manner as for the original hearing.

(3) A proposition to create a cultural arts, stadium and convention district shall be submitted to the voters of the proposed district within two years of the adoption of a resolution providing for such submittal by the county legislative authority at the conclusion of such hearings. The resolution shall establish the boundaries of the district and include a finding that the creation of the district is in the public interest and that the area included within the district can reasonably be expected to benefit from its creation. No portion of a city may be included in such a district unless the entire city is included. The boundaries of such a district shall follow school district or community college boundaries in as far as practicable.

(4) The proposition to create a cultural arts, stadium and convention district shall be submitted to the voters of the proposed district at the next general election held sixty or more days after the adoption of the resolution. The district shall be created upon approval of the proposition by simple majority vote. The ballot proposition submitted to the voters shall be in substantially the following form:

**FORMATION OF CULTURAL ARTS,
STADIUM AND CONVENTION
DISTRICT-----**

Shall a cultural arts, stadium and convention district be established for the area described in a resolution of the legislative authority of ----- county, adopted on the ----- day of -----, 19--?

[1982 1st ex.s. c 22 § 3.]

67.38.040 Multicounty district—Creation. A joint hearing by the legislative authorities of two or more counties on the proposed creation of a cultural arts, stadium and convention district including areas within such counties may be held as provided herein:

(1) The process to initiate such a hearing shall be identical with the process provided in RCW 67.38.030(1), except a resolution of all the legislative authorities of each county with territory proposed to be included shall be necessary.

(2) No territory may be added to or deleted from such a proposed district, except by action of the county legislative authority of the county within whose boundaries the territory lies pursuant to the process provided in RCW 67.38.030.

(3) The resolutions shall each contain identical provisions concerning the governing body, as delineated in RCW 67.38.050. [1982 1st ex.s. c 22 § 4.]

67.38.050 Governing body. The number of persons on the governing body of the district and how such persons shall be selected and replaced shall be included in the resolution of the county legislative authority providing for the submittal of the proposition to create the district to the voters. Members of the governing body may only consist of a combination of city council members or mayors of the city or cities included within the district, members of the county legislative authority, the county executive of a county operating under a home rule charter, elected members of the governing bodies of municipalities located within the district, and members of the board of regents of a community college district. No governing body may consist of more than nine members. The resolution may also provide for additional, ex officio, nonvoting members consisting of elected officials or appointed officials from the counties, cities, or municipalities which are located all or partially within the boundaries of such a district and who [which] do not have elected or appointed officials sitting on the governing body.

Any member of the governing body, or any ex officio member, who is not an elective official whose office is a full-time position may be reimbursed for reasonable expenses actually incurred in attending meetings or engaging in other district business as provided in RCW 42.24.090. [1982 1st ex.s. c 22 § 5.]

67.38.060 Comprehensive plan—Development—Elements. The cultural arts, stadium and convention district, as authorized in this chapter, shall develop a comprehensive cultural arts, stadium and convention plan for the district. Such plan shall include, but not be limited to the following elements:

(1) The levels of cultural arts, stadium and convention services that can be reasonably provided for various portions of the district.

(2) The funding requirements, including local tax sources or federal funds, necessary to provide various levels of service within the district.

(3) The impact of such a service on other cultural arts, stadium and convention systems operating within that county or adjacent counties. [1982 1st ex.s. c 22 § 6.]

67.38.070 Comprehensive plan—Review—Approval or disapproval—Resubmission. The comprehensive cultural arts, stadium and convention plan adopted by the district shall be reviewed by the state planning and community affairs agency, or its successor, to determine:

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

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

After reviewing the comprehensive cultural arts, stadium and convention plan, the state planning and community affairs agency, or its successor, shall have sixty days in which to approve such plan and to certify to the state treasurer that such district shall be eligible to receive funds. To be approved a plan shall provide for coordinated cultural arts, stadium and convention planning, and be consistent with the public cultural arts, stadium and convention coordination criteria in a manner prescribed by chapter 35.60 RCW. In the event such comprehensive plan is disapproved and ruled ineligible to receive funds, the state planning and community affairs agency, or its successor, shall provide written notice to the district within thirty days as to the reasons for such plan's disapproval and such ineligibility. The district may resubmit such plan upon reconsideration and correction of such deficiencies cited in such notice of disapproval. [1982 1st ex.s. c 22 § 7.]

67.38.080 Annexation election. An election to authorize the annexation of contiguous territory to a cultural arts, stadium and convention district may be submitted to the voters of the area proposed to be annexed upon the passage of a resolution of the governing body of the district. Approval by simple majority vote shall authorize such annexation. [1982 1st ex.s. c 22 § 8.]

67.38.090 District as quasi municipal corporation—General powers. A cultural arts, stadium and convention district is a quasi municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1, of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2, of the state Constitution. A district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purpose. In addition to the powers specifically granted by this chapter, a district shall have all powers which are necessary to carry out the purposes of this chapter. A cultural arts, stadium and convention district may contract with the United States or any agency thereof, any state or agency thereof, any other cultural arts, stadium and convention district, any county, city, metropolitan municipal corporation, special district, or governmental agency, within

or without the state, and any private person, firm or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction or renovation or operation of cultural arts, stadium and convention facilities. In addition, a district may contract with any governmental agency or with any private person, firm or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands and rights of way of all kinds which are owned, leased or held by the other party and for the purpose of planning, constructing or operating any facility or performing any service which the cultural arts, stadium and convention district may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties. Before any contract for the lease or operation of any cultural arts, stadium and convention district facilities shall be let to any private person, firm or corporation, competitive bids shall be called upon such notice, bidder qualifications and bid conditions as the district shall determine.

A district may sue and be sued in its corporate capacity in all courts and in all proceedings. [1982 1st ex.s. c 22 § 9.]

67.38.100 Additional powers. The governing body of a cultural arts, stadium and convention district shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt and carry out a general comprehensive plan for cultural arts, stadium and convention service which will best serve the residents of the district and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, gift or grant and to lease, convey, construct, add to, improve, replace, repair, maintain, and operate cultural arts, stadium and convention facilities and properties within the district, including portable and mobile facilities and parking facilities and properties and such other facilities and properties as may be necessary for passenger and vehicular access to and from such facilities and properties, together with all lands, rights of way, property, equipment and accessories necessary for such systems and facilities. Cultural arts, stadium and convention facilities and properties which are presently owned by any component city, county or municipality may be acquired or used by the district only with the consent of the legislative authority, council or governing body of the component city, county or municipality owning such facilities. A component city, county or municipality is hereby authorized to convey or lease such facilities to a district or to contract for their joint use on such terms as may be fixed by agreement between the component city, county or municipality and the district, without submitting the matter to the voters of such component city, county or municipality.

(3) To fix rates and charges for the use of such facilities. [1982 1st ex.s. c 22 § 10.]

67.38.110 Issuance of general obligation bonds—Maturity—Excess levies. To carry out the purpose of this chapter, any cultural arts, stadium and convention district shall have the power to issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding general obligation indebtedness equal to three-eighths of one percent of the value of taxable property within such district, as the term "value of taxable property" is defined in RCW 39.36.015. A cultural arts, stadium and convention district is additionally authorized to issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to three-fourths of one percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, and to provide for the retirement thereof by excess levies when approved by the voters at a special election called for that purpose in the manner prescribed by section 6, Article VIII and section 2, Article VII of the Constitution and by RCW 84.52.056. General obligation bonds may not be issued with a maturity in excess of forty years. [1982 1st ex.s. c 22 § 11.]

67.38.120 Revenue bonds—Issuance, sale, term, payment. To carry out the purposes of this chapter, the cultural arts, stadium and convention district shall have the power to issue revenue bonds: *Provided*, That the district governing body shall create or have created a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the governing body may obligate the district to pay such amounts of the gross revenue of all or any part of the facilities constructed, acquired, improved, repaired or replaced pursuant to this chapter, as the governing body shall determine: *Provided further*, That the principal of and interest on such bonds shall be payable only out of such special fund or funds, and the owners and holders of such bonds shall have a lien and charge against the gross revenue pledged to such fund.

The governing body of a district shall have such further powers and duties in carrying out the purposes of this chapter as provided in RCW 67.28.160. [1982 1st ex.s. c 22 § 12.]

67.38.130 Cultural arts, stadium and convention district tax levies. The governing body of a cultural arts, stadium and convention district may levy or cause to levy the following ad valorem taxes:

(1) A regular ad valorem property tax levy in an amount equal to twenty-five cents or less per thousand dollars of the assessed value of property in the district in each year for six consecutive years. This six year levy must be approved by a majority of at least three-fifths of the electors thereof voting on the proposition, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percentum of the total votes cast in such taxing district at the last preceding general election; or by a majority of at least three-fifths of the electors

thereof voting on the proposition to levy when the number of electors voting yes on the proposition exceeds forty percentum of the total votes cast in such taxing district in the last preceding general election.

In the event cultural arts, stadium and convention districts are levying property taxes, which in combination with property taxes levied by other taxing districts result in taxes in excess of the one percent limitation provided for in Article VII, section 2, of our state Constitution, the cultural arts, stadium and convention district property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced: *Provided*, That no cultural arts, stadium, and convention district may pledge anticipated revenues derived from the property tax herein authorized as security for payments of bonds issued pursuant to subsection (1) of this section: *Provided, further*, That such limitation shall not apply to property taxes approved pursuant to subsections (2) and (3) of this section.

The limitation in RCW 84.55.010 shall apply to levies after the first levy authorized under this section following the approval of such levy by voters pursuant to this section.

(2) An annual excess ad valorem property tax for general district purposes when authorized by the district voters in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.052.

(3) Multi-year excess ad valorem property tax levies used to retire general obligation bond issues when authorized by the district voters in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.056.

The district shall include in its regular property tax levy for each year a sum sufficient to pay the interest and principal on all outstanding general obligation bonds issued without voter approval pursuant to RCW 67.38.110 and may include a sum sufficient to create a sinking fund for the redemption of all outstanding bonds. [1982 1st ex.s. c 22 § 13.]

67.38.140 Contribution of sums for expenses. The county or counties and each component city included in the district collecting or planning to collect the hotel/motel tax pursuant to RCW 67.28.180 may contribute such revenue towards the expense for maintaining and operating the cultural arts, stadium and convention system in such manner as shall be agreed upon between them. [1982 1st ex.s. c 22 § 14.]

67.38.150 Treasurer and auditor—Bond—Duties—Funds—Depositaries. Unless the cultural arts, stadium and convention district governing body, by resolution, designates some other person having experience in financial or fiscal matters as treasurer of the district, the treasurer of the county in which a cultural arts, stadium and convention district is located shall be ex officio treasurer of the district: *Provided*, That in the case of a multicounty cultural arts, stadium and convention district, the county treasurer of the county with the greatest amount of area within the district shall be the ex officio treasurer of the district. The district may, and if

the treasurer is not a county treasurer shall, require a bond for such treasurer with a surety company authorized to do business in the state of Washington, in an amount and under the terms and conditions as agreed to by the district, by resolution, in such amount from time to time which will protect the authority against loss. The premium on any such bond shall be paid by the authority.

All district funds shall be paid to the treasurer and shall be disbursed by the treasurer only on warrants issued by an auditor appointed by the district, upon orders or vouchers approved by the governing body. The treasurer shall establish a "cultural arts, stadium and convention fund," into which shall be paid district funds as provided in RCW 67.38.140 and the treasurer shall maintain such special funds as may be created by the governing body into which said treasurer shall place all moneys as the governing body may, by resolution, direct.

If the treasurer of the district is a treasurer of the county, all district funds shall be deposited with the county depository under the same restrictions, contracts, and security as provided for county depositories; the county auditor of such county shall keep the records of the receipts and disbursements, and shall draw, and such county treasurer shall honor and pay all warrants, which shall be approved before issuance and payment as directed by the district. [1982 1st ex.s. c 22 § 15.]

67.38.160 Dissolution and liquidation. A cultural arts, stadium and convention district established in accordance with this chapter shall be dissolved and its affairs liquidated when so directed by a majority of persons in the district voting on such question. An election placing such question before the voters may be called in the following manner:

(1) By resolution of the cultural arts, stadium and convention district governing authority;

(2) By resolution of the county legislative body or bodies with the concurrence therein by resolution of the city council of a component city; or

(3) By petition calling for such election signed by at least ten percent of the qualified voters residing within the district filed with the auditor of the county wherein the largest portion of the district is located. The auditor shall examine the same and certify to the sufficiency of the signatures thereon: *Provided*, That to be validated, signatures must have been collected within a ninety-day period as designated by the petition sponsors.

With dissolution of the district, any outstanding obligations and bonded indebtedness of the district shall be satisfied or allocated by mutual agreement to the county or counties and component cities of the cultural arts, stadium and convention district. [1982 1st ex.s. c 22 § 16.]

67.38.900 Captions not law—1982 1st ex.s. c 22. Section captions as used in this amendatory act shall not be construed as and do not constitute any part of the law. [1982 1st ex.s. c 22 § 19.]

67.38.905 Severability—1982 1st ex.s. c 22. If any provision of this 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. [1982 1st ex.s. c 22 § 21.]

Chapter 67.40

CONVENTION AND TRADE FACILITIES

Sections	
67.40.010	Legislative finding.
67.40.020	State convention and trade center—Public nonprofit corporation authorized—Board of directors—Powers and duties.
67.40.030	General obligation bonds—Authorized—Appropriation required.
67.40.040	Deposit of proceeds in state convention and trade center account—Use.
67.40.050	Administration of proceeds.
67.40.060	Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
67.40.070	Legislature may provide additional means for payment of bonds.
67.40.080	Bonds legal investment for public funds.
67.40.090	Special excise tax imposed in King county—Hotel, motel, rooming house, trailer camp, etc., charges—Rates.
67.40.100	Limitation on license fees and taxes on hotels, motels, rooming houses, trailer camps, etc.—Special excise tax authorized for convention and trade facilities—Conditions.
67.40.900	Severability—1982 c 34.

67.40.010 Legislative finding. The legislature finds:

(1) The convention and trade show business will provide both direct and indirect civic and economic benefits to the people of the state of Washington.

(2) The location of a state convention and trade center in the city of Seattle will particularly benefit and increase the occupancy of larger hotels and other lodging facilities in the city of Seattle and to a lesser extent in King county.

(3) Imposing a special excise tax on the price of lodging in Seattle, and at a lower rate elsewhere in King county, is an appropriate method of paying for a substantial part of the cost of constructing, maintaining, and operating a state convention and trade center. [1982 c 34 § 1.]

67.40.020 State convention and trade center—Public nonprofit corporation authorized—Board of directors—Powers and duties. The governor is authorized to form a public nonprofit corporation in the same manner as a private nonprofit corporation is formed under chapter 24.03 RCW. The public corporation shall be an instrumentality of the state and have all the powers and be subject to the same restrictions as are permitted or prescribed to private nonprofit corporations, but shall exercise those powers only for carrying out the purposes of this chapter and those purposes necessarily implied therefrom. The governor shall appoint a board of nine directors for the corporation who shall serve terms of six years, except that two of the original directors shall

serve for two years and two of the original directors shall serve for four years. The directors may provide for the payment of their expenses. The corporation may cause a state convention and trade center with an overall size of approximately three hundred thousand square feet to be designed and constructed on a site in the city of Seattle. In acquiring, designing, and constructing the state convention and trade center, the corporation shall consider the recommendations and proposals issued on December 11, 1981, by the joint select committee on the state convention and trade center.

The corporation may acquire real and personal property by lease, purchase, condemnation of privately owned land, or gift, accept grants, request the financing provided for in RCW 67.40.030, cause the state convention and trade center facilities to be constructed, and do whatever is necessary or appropriate to carry out those purposes. The corporation shall maintain, operate, promote, and manage the state convention and trade center. [1982 c 34 § 2.]

67.40.030 General obligation bonds—Authorized—Appropriation required. For the purpose of providing funds for the state convention and trade center, the state finance committee is authorized to issue, upon request of the corporation formed under RCW 67.40.020 and in a single offering, general obligation bonds of the state of Washington in the sum of ninety-nine million dollars, or so much thereof as may be required, to finance this project and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1982 c 34 § 3.]

67.40.040 Deposit of proceeds in state convention and trade center account—Use. The proceeds from the sale of the bonds authorized in RCW 67.40.030, earnings from the investment of the proceeds, proceeds of the tax imposed under RCW 67.40.090, and operating revenues of the state convention and trade center shall be deposited in the state convention and trade center account hereby created in the general fund.

Moneys in the account shall be used exclusively for the following purposes in the following order:

- (1) For reimbursement of the state general fund under RCW 67.40.060;
- (2) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;
- (3) For acquisition, design, and construction of the state convention and trade center;
- (4) For operation and promotion of the center;
- (5) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center;
- (6) For early retirement of the bonds issued under RCW 67.40.030;
- (7) To establish a sinking fund of up to fifty million dollars for expansion or renovation of the center; and
- (8) To reduce or eliminate the tax imposed under RCW 67.40.090. [1982 c 34 § 4.]

67.40.050 Administration of proceeds. The moneys deposited pursuant to RCW 67.40.040 in the state convention and trade center account of the general fund shall be administered by the corporation formed under RCW 67.40.020, subject to legislative appropriation. [1982 c 34 § 5.]

67.40.060 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 67.40.030.

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 the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on that payment date. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be paid out of the state convention and trade center account from the proceeds of the special excise tax imposed under RCW 67.40.090 and operating revenues of the state convention and trade center for deposit in the general fund of the state treasury. Any deficiency in such excise tax transfer shall be made up as soon as such taxes are available for transfer and shall constitute a continuing obligation of the state convention and trade center account until all deficiencies are fully paid.

Bonds issued under RCW 67.40.030 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 the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1982 c 34 § 6.]

67.40.070 Legislature may provide additional means for payment of bonds. The legislature may increase the rate of tax imposed in RCW 67.40.090 (1) and (2) or may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 67.40.030, and RCW 67.40.060 shall not be deemed to provide an exclusive method for the payment. [1982 c 34 § 7.]

67.40.080 Bonds legal investment for public funds. The bonds authorized in RCW 67.40.030 shall be a legal

investment for all state funds or funds under state control and for all funds of any other public body. [1982 c 34 § 8.]

67.40.090 Special excise tax imposed in King county—Hotel, motel, rooming house, trailer camp, etc., charges—Rates. Commencing April 1, 1982, there is imposed, and the department of revenue shall collect, in King county a special excise tax on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than sixty lodging units. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes rental or lease of real property and not a mere license to use or enjoy the same. The legislature on behalf of the state pledges to maintain and continue this tax until the bonds authorized by this chapter are fully redeemed, both principal and interest.

The rate of the tax imposed under this section shall be:

(1) From April 1, 1982, through December 31, 1982, inclusive, three percent in the city of Seattle and two percent in King county outside the city of Seattle; and

(2) On and after January 1, 1983, five percent in the city of Seattle and two percent in King county outside the city of Seattle.

The proceeds of the special excise tax shall be deposited in the state convention and trade center account. Chapter 82.32 RCW applies to the tax imposed under this section. [1982 c 34 § 9.]

*Special excise tax authorized
for convention or trade facilities: RCW 35.21.285.
for public stadium, convention, and arts facilities: RCW 67.28-.180 through 67.28.210.*

67.40.100 Limitation on license fees and taxes on hotels, motels, rooming houses, trailer camps, etc.—Special excise tax authorized for convention and trade facilities—Conditions. (1) Except as provided in chapters 67.28 and 82.14 RCW and subsection (2) of this section, after January 1, 1983, no city, town, or county in which the tax under RCW 67.40.090 is imposed may impose a license fee or tax on the act or privilege of engaging in business to furnish lodging by a hotel, rooming house, tourist court, motel, trailer camp, or similar facilities in excess of the rate imposed upon other persons engaged in the business of making sales at retail as that term is defined in chapter 82.04 RCW.

(2) A city incorporated before January 1, 1982, with a population over sixty thousand located in a county with a population over one million, other than the city of Seattle, may impose a special excise tax under the following conditions:

(a) The proceeds of the tax must be used solely for the acquisition, design, and construction of convention and trade facilities.

(b) The legislative body of the city, before imposing the tax, must authorize a complete study and investigation of the desirability and economic feasibility of the proposed convention and trade facilities.

(c) The rate of the tax shall not exceed three percent.

(d) The tax shall be imposed on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than sixty lodging units. [1982 c 34 § 10.]

67.40.900 Severability—1982 c 34. If any provision of this act or its application to any municipality, person, or circumstance is held invalid, the remainder of the act or the application of the provision to other municipalities, persons, or circumstances is not affected. [1982 c 34 § 13.]

Chapter 67.70 STATE LOTTERY

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67.70.010 Definitions. For the purposes of this chapter:

(1) "Commission" means the state lottery commission established by this chapter;

(2) "Lottery" or "state lottery" means the lottery established and operated pursuant to this chapter;

(3) "Director" means the director of the state lottery commission established by this chapter. [1982 2nd ex.s. c 7 § 1.]

67.70.020 Services to be provided by gambling commission. The state gambling commission shall provide such services as are required by the state lottery commission to implement the provisions of this chapter. However, the costs of such services shall be paid for from moneys placed within the revolving fund created by RCW 67.70.260. [1982 2nd ex.s. c 7 § 2.]

67.70.030 State lottery commission created—Membership—Terms—Vacancies—Chairman—Quorum. There is created the state lottery commission to consist of five members appointed by the governor with the consent of the senate. Of the initial members, one shall serve a term of two years, one shall serve a term of three years, one shall serve a term of four years, one shall serve a term of five years, and one shall serve a term of six years. Their successors, all of whom shall be citizen members appointed by the governor with the consent of the senate, upon being appointed and qualified, shall serve six-year terms. No member of the commission who has served a full six-year term is eligible for reappointment. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs.

The governor shall designate one member of the commission to serve as chairman at the governor's pleasure.

A majority of the members shall constitute a quorum for the transaction of business. [1982 2nd ex.s. c 7 § 3.]

67.70.040 Powers and duties of commission. The commission shall have the power, and it shall be its duty:

(1) To promulgate such rules governing the establishment and operation of a state lottery as it deems necessary and desirable in order that such a lottery be initiated at the earliest feasible and practicable time, and in order that such lottery produce the maximum amount of net revenues for the state consonant with the dignity of the state and the general welfare of the people. Such rules shall include, but shall not be limited to, the following:

(a) The type of lottery to be conducted which may include the selling of tickets or shares, or the use of electronic or mechanical devices or video terminals which do not require a printed ticket;

(b) The price, or prices, of tickets or shares in the lottery;

(c) The numbers and sizes of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares;

(e) The manner and time of payment of prizes to the holder of winning tickets or shares which, at the director's option, may be paid in lump sum amounts or installments over a period of years;

(f) The frequency of the drawings or selections of winning tickets or shares, without limitation;

(g) Without limit as to number, the type or types of locations at which tickets or shares may be sold;

(h) The method to be used in selling tickets or shares, which may include the use of electronic or mechanical devices and video terminals;

(i) The licensing of agents to sell or distribute tickets or shares, except that a person under the age of eighteen shall not be licensed as an agent;

(j) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(k) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among: (i) The payment of prizes to the holders of winning tickets or shares, which shall not be less than forty-five percent of the gross annual revenue from such lottery, (ii) the payment of costs incurred in the operation and administration of the lottery, including the expenses of the lottery and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, but the payment of such costs shall not exceed fifteen percent of the gross annual revenue from such lottery, (iii) for the repayment of any moneys appropriated to the state lottery fund pursuant to sections 36 and 37, chapter 7, Laws of 1982 2nd ex. sess., and (iv) for transfer to the state's general fund: *Provided*, That no less than forty percent of the gross annual revenue from the sale of lottery tickets or shares shall be transferred to the state general fund;

(l) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

(2) To ensure that in each place authorized to sell lottery tickets or shares, on the back of the ticket or share, and in any advertising or promotion there shall be conspicuously displayed an estimate of the probability of purchasing a winning ticket.

(3) To amend, repeal, or supplement any such rules from time to time as it deems necessary or desirable.

(4) To advise and make recommendations to the director for the operation and administration of the lottery. [1982 2nd ex.s. c 7 § 4.]

67.70.050 Office of director created—Appointment—Salary—Duties. There is created the office

of director of the state lottery. The director shall be appointed by the governor with the consent of the senate. The director shall serve at the pleasure of the governor and shall receive such salary as is determined by the governor, but in no case may the director's salary be more than ninety percent of the salary of the governor. The director shall:

(1) Supervise and administer the operation of the lottery in accordance with the provisions of this chapter and with the rules of the commission.

(2) Appoint such deputy and assistant directors as may be required to carry out the functions and duties of his office: *Provided*, That the provisions of the state civil service law, chapter 41.06 RCW, shall not apply to such deputy and assistant directors.

(3) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter: *Provided*, That the provisions of the state civil service law, chapter 41.06 RCW, shall not apply to such employees as are engaged in undercover audit or investigative work or security operations but shall apply to other employees appointed by the director, except as provided for in subsection (2) of this section.

(4) In accordance with the provisions of this chapter and the rules of the commission, license as agents to sell or distribute lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent, in such amount as provided in the rules of the commission. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules of the commission. License fees may be established by the commission, and, if established, shall be deposited in the revolving fund created by RCW 67.70.260.

(5) Confer regularly as necessary or desirable with the commission on the operation and administration of the lottery; make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the lottery; and advise the commission and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.

(6) Subject to the applicable laws relating to public contracts, enter into contracts for the operation of the lottery, or any part thereof, and into contracts for the promotion of the lottery. No contract awarded or entered into by the director may be assigned by the holder thereof except by specific approval of the commission: *Provided*, That nothing in this chapter authorizes the director to enter into public contracts for the regular and permanent administration of the lottery after the initial development and implementation.

(7) Certify quarterly to the state treasurer, the legislative budget committee, and the commission a full and complete statement of lottery revenues, prize disbursements, and other expenses for the preceding quarter.

(8) Publish quarterly reports showing the total lottery revenues, prize disbursements, and other expenses for the preceding quarter, and make an annual report,

which shall include a full and complete statement of lottery revenues, prize disbursements, and other expenses, to the governor and the legislature, and including such recommendations for changes in this chapter as the director deems necessary or desirable.

(9) Report immediately to the governor and the legislature any matters which require immediate changes in the laws of this state in order to prevent abuses and evasions of this chapter or rules promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

(10) Carry on a continuous study and investigation of the lottery throughout the state: (a) For the purpose of ascertaining any defects in this chapter or in the rules issued thereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this chapter or the rules may arise or be practiced, (b) for the purpose of formulating recommendations for changes in this chapter and the rules promulgated thereunder to prevent such abuses and evasions, (c) to guard against the use of this chapter and the rules issued thereunder as a cloak for the carrying on of professional gambling and crime, and (d) to insure that this chapter and rules shall be in such form and be so administered as to serve the true purposes of this chapter.

(11) Make a continuous study and investigation of: (a) The operation and the administration of similar laws which may be in effect in other states or countries, (b) any literature on the subject which from time to time may be published or available, (c) any federal laws which may affect the operation of the lottery, and (d) the reaction of the citizens of this state to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this chapter.

(12) Have all enforcement powers granted in chapter 9.46 RCW.

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1982 2nd ex.s. c 7 § 5.]

67.70.060 Powers of director. (1) The director or the director's authorized representative may:

(a) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder; and

(b) Inspect the books, documents, and records of any person lending money to or in any manner financing any license holder or applicant for a license or receiving any income or profits from the use of such license for the purpose of determining compliance or noncompliance with the provisions of this chapter or the rules and regulations adopted pursuant thereto.

(2) For the purpose of any investigation or proceeding under this chapter, the director or an administrative law judge appointed under chapter 34.12 RCW may conduct hearings, administer oaths or affirmations, or upon the

director's or administrative law judge's motion or upon request of any party may subpoena witnesses, compel attendance, take depositions, take evidence, or require the production of any matter which is relevant to the investigation or proceeding, including but not limited to the existence, description, nature, custody, condition, or location of any books, documents, or other tangible things, or the identity or location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure to obey a subpoena or to answer questions propounded by the administrative law judge and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

(4) The administrative law judges appointed under chapter 34.12 RCW may conduct hearings respecting the suspension, revocation, or denial of licenses, may administer oaths, admit or deny admission of evidence, compel the attendance of witnesses, issue subpoenas, issue orders, and exercise all other powers and perform all other functions set out in RCW 34.04.090 (6) and (8), 34.04.100, and 34.04.105.

(5) Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.04 RCW. [1982 2nd ex.s. c 7 § 6.]

67.70.070 Licenses for lottery sales agents—Factors—"Person" defined. No license as an agent to sell lottery tickets or shares may be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing a license the director shall consider such factors as: (1) The financial responsibility and security of the person and his business or activity, (2) the accessibility of his place of business or activity to the public, (3) the sufficiency of existing licenses to serve the public convenience, and (4) the volume of expected sales.

For purposes of this section, the term "person" means an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" does not mean any department, commission, agency, or instrumentality of the state, or any county or municipality or any agency or instrumentality thereof, except for retail outlets of the state liquor control board. [1982 2nd ex.s. c 7 § 7.]

67.70.080 License as authority to act. Any person licensed as provided in this chapter is hereby authorized and empowered to act as a lottery sales agent. [1982 2nd ex.s. c 7 § 8.]

67.70.090 Denial, suspension, and revocation of licenses. The director may deny an application for, or suspend or revoke, after notice and hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the director without

prior notice, pending any prosecution, investigation, or hearing. A license may be suspended or revoked or an application may be denied by the director for one or more of the following reasons:

(1) Failure to account for lottery tickets received or the proceeds of the sale of lottery tickets or to file a bond if required by the director or to comply with the instructions of the director concerning the licensed activity;

(2) For any of the reasons or grounds stated in RCW 9.46.075 or violation of this chapter or the rules of the commission;

(3) Failure to file any return or report or to keep records or to pay any tax required by this chapter;

(4) Fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;

(5) That the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs, or that public convenience is adequately served by other licensees;

(6) A material change, since issuance of the license with respect to any matters required to be considered by the director under RCW 67.70.070.

For the purpose of reviewing any application for a license and for considering the denial, suspension, or revocation of any license the director may consider any prior criminal conduct of the applicant or licensee and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. [1982 2nd ex.s. c 7 § 9.]

67.70.100 Assignment of rights prohibited—Exceptions—Discharge of liability. No right of any person to a prize drawn is assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The commission and the director shall be discharged of all further liability upon payment of a prize pursuant to this section. [1982 2nd ex.s. c 7 § 10.]

67.70.110 Maximum price of ticket or share limited—Sale by other than licensed agent prohibited. A person shall not sell a ticket or share at a price greater than that fixed by rule of the commission. No person other than a licensed lottery sales agent shall sell lottery tickets, except that nothing in this section prevents any person from giving lottery tickets or shares to another as a gift. [1982 2nd ex.s. c 7 § 11.]

67.70.120 Sale to minor prohibited—Exception—Penalties. A ticket or share shall not be sold to any person under the age of eighteen, but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person eighteen years of age or older to a person less than that age. Any licensee who knowingly sells or offers to sell a lottery ticket or share to any person under the age of eighteen is guilty of a misdemeanor. In the event that a person under the age of eighteen years directly purchases a ticket

in violation of this section, no prize will be paid to such person and the prize money otherwise payable on the ticket will be treated as unclaimed pursuant to RCW 67.70.190. [1982 2nd ex.s. c 7 § 12.]

67.70.130 Prohibited acts—Penalty. A person shall not alter or forge a lottery ticket. A person shall not claim a lottery prize or share of a lottery prize by means of fraud, deceit, or misrepresentation. A person shall not conspire, aid, abet, or agree to aid another person or persons to claim a lottery prize or share of a lottery prize by means of fraud, deceit, or misrepresentation.

A violation of this section is a felony. [1982 2nd ex.s. c 7 § 13.]

67.70.140 Penalty for unlicensed activity. Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license, is guilty of a felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section. [1982 2nd ex.s. c 7 § 14.]

67.70.150 Penalty for false or misleading statement or entry or failure to produce documents. Whoever, in any application for a license or in any book or record required to be maintained or in any report required to be submitted, makes any false or misleading statement, or makes any false or misleading entry or willfully fails to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection any book, record, or document required to be maintained or made by federal or state law is guilty of a gross misdemeanor. [1982 2nd ex.s. c 7 § 15.]

67.70.160 Penalty for violation of chapter—Exceptions. Any person who violates any provision of this chapter for which no penalty is otherwise provided, or knowingly causes, aids, abets, or conspires with another to cause any person to violate any provision of this chapter is guilty of a class C felony, except where other penalties are specifically provided for in this chapter. [1982 2nd ex.s. c 7 § 16.]

67.70.170 Penalty for violation of rules—Exceptions. Any person who violates any rule adopted pursuant to this chapter for which no penalty is otherwise provided, or knowingly causes, aids, abets, or conspires with another to cause any person to violate any rule adopted pursuant to this chapter is guilty of a gross misdemeanor, except where other penalties are specifically provided for in this chapter. [1982 2nd ex.s. c 7 § 17.]

67.70.180 Persons prohibited from purchasing tickets or shares or receiving prizes—Penalty. A ticket or share shall not be purchased by, and a prize shall not be paid to any member or employee of the commission or to

any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any member or employee of the commission.

A violation of this section is a misdemeanor. [1982 2nd ex.s. c 7 § 18.]

67.70.190 Unclaimed prizes. Unclaimed prizes shall be retained in the state lottery fund for the person entitled thereto for one hundred eighty days after the drawing in which the prize is won. If no claim is made for the prize within this time, the prize shall be retained in the state lottery fund for further use as prizes and all rights to the prize shall be extinguished. [1982 2nd ex.s. c 7 § 19.]

67.70.200 Deposit of moneys received by agents from sales—Power of director—Reports. The director, in his discretion, may require any or all lottery sales agents to deposit to the credit of the state lottery fund in banks designated by the state treasurer, all moneys received by such agents from the sale of lottery tickets or shares, less the amount, if any, retained as compensation for the sale of the tickets or shares, and to file with the director or his designated agents, reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. The director may make such arrangements for any person, including a bank, to perform such functions, activities, or services in connection with the operation of the lottery as he or she may deem advisable pursuant to this chapter and the rules of the commission, and such functions, activities, or services shall constitute lawful functions, activities, and services of such person. [1982 2nd ex.s. c 7 § 20.]

67.70.210 Other law inapplicable to sale of tickets or shares. No other law, including chapter 9.46 RCW, providing any penalty or disability for the sale of lottery tickets or any acts done in connection with a lottery applies to the sale of tickets or shares performed pursuant to this chapter. [1982 2nd ex.s. c 7 § 21.]

67.70.220 Payment of prizes to minor. If the person entitled to a prize is under the age of eighteen years, and such prize is less than five thousand dollars, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor. If the person entitled to a prize is under the age of eighteen years, and such prize if [is] five thousand dollars or more, the director may direct payment to such minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a guardian of the minor as custodian for such minor. The person so named as custodian shall have the same duties and powers as a person designated as a custodian in a manner prescribed by the Washington uniform gifts to minors act, chapter 21.24 RCW, and for the purposes of this section the terms "adult member of a minor's family," "guardian of a minor," and "bank" shall have

the same meaning as in chapter 21.24 RCW. The commission and the director shall be discharged of all further liability upon payment of a prize to a minor pursuant to this section. [1982 2nd ex.s. c 7 § 22.]

67.70.230 State lottery fund created. There is hereby created and established a separate fund, to be known as the state lottery fund. Such fund shall be managed, maintained, and controlled by the commission and shall consist of all revenues received from the sale of lottery tickets or shares, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. The fund shall be a separate fund outside the state treasury. No appropriation is required to permit expenditures and payment of obligations from the fund. [1982 2nd ex.s. c 7 § 23.]

67.70.240 Use of moneys in state lottery fund limited. The moneys in the state lottery fund shall be used only: (1) For the payment of prizes to the holders of winning lottery tickets or shares; (2) for purposes of making deposits into the reserve account created by RCW 67.70.250 and into the revolving fund created by RCW 67.70.260; (3) for purposes of making deposits into the state's general fund; and (4) for the repayment of the amounts appropriated to the fund pursuant to sections 36 and 37, chapter 7, Laws of 1982 2nd ex. sess. [1982 2nd ex.s. c 7 § 24.]

67.70.250 Methods for payment of prizes by installments. If the director decides to pay any portion of or all of the prizes in the form of installments over a period of years, the director shall provide for the payment of all such installments by one, but not both, of the following methods:

(1) The director may enter into contracts with any financially responsible person or firm providing for the payment of such installments; or

(2) The director may establish and maintain a reserve account into which shall be placed sufficient moneys for the director to pay such installments as they become due. Such reserve account shall be maintained as a separate and independent fund outside the state treasury. [1982 2nd ex.s. c 7 § 25.]

67.70.260 Revolving fund created—Purpose—Limitation on expenditures. There is hereby created a revolving fund into which shall be deposited sufficient money to provide for the payment of the costs incurred in the operation and administration of the lottery. The amount expended annually from the revolving fund shall never exceed fifteen percent of the gross annual revenue accruing from the sale of lottery tickets or shares. Such revolving fund shall be managed, controlled, and maintained by the director and shall be a separate and independent fund outside the state treasury. No appropriation is required to permit expenditures and payment of obligations from the fund. [1982 2nd ex.s. c 7 § 26.]

67.70.270 Members of commission—Compensation—Travel expenses. Each member of the commission shall receive compensation of one hundred dollars per day for each day actually spent in the performance of duties, and actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the director. [1982 2nd ex.s. c 7 § 27.]

67.70.280 Application of administrative procedure act. The provisions of the administrative procedure act, chapter 34.04 RCW, shall apply to administrative actions taken by the commission or the director pursuant to this chapter. [1982 2nd ex.s. c 7 § 28.]

67.70.290 Post-audits by state auditor. The state auditor shall conduct an annual post-audit of all accounts and transactions of the lottery and such other special post-audits as he may be directed to conduct pursuant to chapter 43.09 RCW. [1982 2nd ex.s. c 7 § 29.]

67.70.300 Investigations by attorney general authorized. The attorney general may investigate violations of this chapter, and of the criminal laws within this state, by the commission or its employees, licensees, or agents, in the manner prescribed for criminal investigations in RCW 43.10.090. [1982 2nd ex.s. c 7 § 30.]

67.70.310 Management review by director of financial management authorized. The director of financial management may conduct a management review of the commission's lottery operations to assure that:

(1) The manner and time of payment of prizes to the holder of winning tickets or shares is consistent with this chapter and the rules adopted under this chapter;

(2) The apportionment of total revenues accruing from the sale of lottery tickets or shares and from all other sources is consistent with this chapter;

(3) The manner and type of lottery being conducted, and the expenses incidental thereto, are the most efficient and cost-effective; and

(4) The commission is not unnecessarily incurring operating and administrative costs.

In conducting a management review, the director of financial management may inspect the books, documents, and records of the commission. Upon completion of a management review, all irregularities shall be reported to the attorney general, the legislative budget committee, and the state auditor. The director of financial management shall make such recommendations as may be necessary for the most efficient and cost-effective operation of the lottery. [1982 2nd ex.s. c 7 § 31.]

67.70.320 Verification by certified public accountant. The director of financial management shall select a certified public accountant to verify that:

(1) The manner of selecting the winning tickets or shares is consistent with this chapter; and

(2) The manner and time of payment of prizes to the holder of winning tickets or shares is consistent with this chapter. The cost of these services shall be paid from moneys placed within the revolving fund created in RCW 67.70.260. [1982 2nd ex.s. c 7 § 32.]

67.70.330 Enforcement powers of director—Commission designated law enforcement agency. The director shall have the power to enforce this chapter and the penal laws of this state relating to the conduct of or participation in lottery activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. The director, the deputy director, assistant directors, and each of the commission's investigators, enforcement officers, and inspectors shall have the power to enforce this chapter and the penal laws of this state relating to the conduct of or participation in lottery activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of this chapter and the penal laws of this state relating to the conduct of or participation in lottery activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of this chapter and the penal laws of this state relating to the conduct of or participation in lottery activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth in this section, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter and to obtain information from and provide information to all other law enforcement agencies. [1982 2nd ex.s. c 7 § 33.]

67.70.900 Expiration of chapter—Evaluation and report. This chapter shall expire July 1, 1987, unless extended by law. The legislative budget committee shall evaluate the effectiveness of this chapter. The final report of the evaluation shall be available to the legislature at least six months prior to the scheduled termination date. The report shall include, but is not limited to, objective findings of fact, conclusions, and recommendations as to continuation, modification, or termination of this chapter. [1982 2nd ex.s. c 7 § 34.]

67.70.902 Construction—1982 2nd ex.s. c 7. This act shall be liberally construed to carry out the purposes and policies of the act. [1982 2nd ex.s. c 7 § 35.]

67.70.903 Severability—1982 2nd ex.s. c 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 2nd ex.s. c 7 § 40.]

Title 68

CEMETERIES, MORGUES AND HUMAN REMAINS

Chapters

- 68.08** Human remains.
68.16 Cemetery districts.

Chapter 68.08 HUMAN REMAINS

Sections

- 68.08.520** Eligible donees—Eye removal by embalmers.

68.08.520 Eligible donees—Eye removal by embalmers. (1) The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(a) Any hospital, surgeon, physician, or other entity which has a physician or surgeon as a regular full-time employee, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation;

(b) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy;

(c) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(d) Any specified individual for therapy or transplantation needed by him.

(2) If the part of the body that is the gift is an eye, the donee or the person authorized to accept the gift may employ or authorize a qualified embalmer, licensed under chapter 18.39 RCW, to remove the eye. [1982 c 9 § 1; 1979 c 37 § 1; 1969 c 80 § 4.]

Chapter 68.16 CEMETERY DISTRICTS

Sections

- 68.16.060** Election on formation of district and to elect first commissioners.
68.16.140 District commissioners—Election.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

68.16.060 Election on formation of district and to elect first commissioners. The board of county commissioners shall have full authority to hear and determine the petition, and if it finds that the formation of the district will be conducive to the public welfare and convenience, it shall by resolution so declare, otherwise it shall

deny the petition. If the board finds in favor of the formation of the district, it shall designate the name and number of the district, fix the boundaries thereof, and cause an election to be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this chapter, and for the purpose of electing its first cemetery district commissioners. The board shall, prior to calling the said election, name three registered resident electors who are property owners or are purchasing property under contract within the boundaries of the district as candidates for election as cemetery district commissioners. These electors are exempt from the requirements of chapter 42.17 RCW. [1982 c 60 § 2; 1947 c 6 § 6; Rem. Supp. 1947 § 3778-155.]

68.16.140 District commissioners—Election. The affairs of the district shall be managed by a board of cemetery district commissioners composed of three qualified electors of the district. Members of the board shall receive no compensation for their services, but shall receive expenses necessarily incurred in attending meetings of the board or when otherwise engaged in district business. The board shall fix the compensation to be paid the secretary and other employees of the district. The first three cemetery district commissioners shall serve only until the first day in January following the next general election, provided such election occurs thirty or more days after the formation of the district, and until their successors have been elected and qualified and have assumed office in accordance with RCW 29.04.170. At the next general district election, as provided in RCW 29.13.020, provided it occurs thirty or more days after the formation of the district, three members of the board of cemetery commissioners shall be chosen. They and all subsequently elected cemetery commissioners shall have the same qualifications as required of the first three cemetery commissioners and are exempt from the requirements of chapter 42.17 RCW. The candidate receiving the highest number of votes shall serve for a term of six years beginning on the first day in January following; the candidate receiving the next higher number of votes shall serve for a term of four years from said date; and the candidate receiving the next higher number of votes shall serve for a term of two years from said date. Upon the expiration of their respective terms, all cemetery commissioners shall be elected for terms of six years to begin on the first day in January next succeeding the day of election and shall serve until their successors have been elected and qualified and assume office in accordance with RCW 29.04.170. Elections shall be called, noticed, conducted and canvassed by the same officials as provided for general county elections. The polling places for a cemetery district election shall be those of the county voting precincts which include any of the territory within the cemetery district, and may be located outside the boundaries of the district, and no such election shall be held irregular or void on that account. [1982 c 60 § 3; 1979 ex.s. c 126 § 40; 1947 c 6 § 14; Rem. Supp. 1947 § 3778-163.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Title 69 FOOD, DRUGS, COSMETICS, AND POISONS

Chapters

- 69.12 Bakeries and bakery products—1937 act.**
- 69.25 Washington wholesome eggs and egg products act.**
- 69.50 Uniform controlled substances act.**
- 69.52 Imitation controlled substances.**
- 69.54 Drug and alcohol rehabilitation, education programs—Drug treatment centers.**

Chapter 69.12

BAKERIES AND BAKERY PRODUCTS—1937 ACT

Sections

- | | |
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| 69.12.020 | Definitions. |
| 69.12.030 | Bakery license—Application. |
| 69.12.040 | Distributor's license—Application. |
| 69.12.050 | License and renewal fees—Expiration date—
Nontransferability. |

69.12.020 Definitions. Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

(1) "Bakery" means any place, premises or establishment where any bakery product is regularly prepared, processed or manufactured for sale other than for consumption on the premises where originally prepared, processed or manufactured.

(2) "Bakery product" includes bread, rolls, cakes, pies, cookies, doughnuts, biscuits and all similar goods, to be used for human food.

(3) "Person" includes an individual, partnership or corporation.

(4) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 38; 1937 c 137 § 2; RRS § 6284-2.]

Severability—1982 c 182: See RCW 19.02.901.

69.12.030 Bakery license—Application. No person shall operate or participate in the operation of any bakery within this state without having obtained from the director of agriculture a bakery license for that bakery issued and in effect under this chapter. Application for such license shall be made through the master license system. Such license shall be granted as a matter of right unless conditions exist which are grounds for a cancellation or revocation of a license as hereinafter set forth. [1982 c 182 § 39; 1937 c 137 § 3; RRS § 6284-3.]

Severability—1982 c 182: See RCW 19.02.901.

Master license system

definition: RCW 69.12.020(4).
existing licenses or permits registered under, when: RCW 19.02.810.
to include additional licenses: RCW 19.02.110.

69.12.040 Distributor's license—Application. No person hereafter shall engage within this state in the sale or distribution of any bakery product, other than exclusively at retail at a fixed place or places of business, without holding a license to do so issued to that person by the director of agriculture. A distributor's license shall not be required of any person distributing solely bakery products manufactured by him in a bakery licensed under this chapter. Application for such license shall be made through the master license system. [1982 c 182 § 40; 1937 c 137 § 4; RRS § 6284-4.]

Severability—1982 c 182: See RCW 19.02.901.

Master license system

definition: RCW 69.12.020(4).

existing licenses or permits registered under, when: RCW 19.02.810.

69.12.050 License and renewal fees—Expiration date—Nontransferability. (1) Each application for a bakery license or distributor's license and for renewal of such license shall be made through the master license system and accompanied by an annual license fee of five dollars. All such license and renewal fees shall be deposited in the state's general fund.

(2) Each such license shall expire on the master license expiration date, unless sooner revoked for cause. Renewal may be obtained annually by paying the required annual license fee. Such license shall not be transferable to any person or be applicable to any location other than that for which originally issued. [1982 c 182 § 41; 1967 c 240 § 44; 1937 c 137 § 5; RRS § 6284-5.]

Severability—1982 c 182: See RCW 19.02.901.

Severability—1967 c 240: See note following RCW 43.23.010.

Bakery license fund abolished and funds transferred to state general fund. See 1967 c 240 §§ 47, 48.

Master license—Expiration date: RCW 19.02.090.

Master license system—Existing licenses or permits registered under, when: RCW 19.02.810.

Chapter 69.25

WASHINGTON WHOLESOME EGGS AND EGG PRODUCTS ACT

Sections

69.25.020	Definitions.
69.25.050	Egg handler's or dealer's license and number— Branch license—Application, fee, posting required, procedure.
69.25.060	Egg handler's or dealer's license—Late renewal fee.

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.

(38) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1982 c 182 § 42; 1975 1st ex.s. c 201 § 3.]

Severability—1982 c 182: See RCW 19.02.901.

69.25.050 Egg handler's or dealer's license and number—Branch license—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 master license expiration date. Application for an egg dealer license or egg dealer branch license, shall be made through the master license system. The annual egg dealer license fee shall be ten dollars and the annual egg dealer branch license fee shall be five dollars. A copy of the master 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. [1982 c 182 § 43; 1975 1st ex.s. c 201 § 6.]

Severability—1982 c 182: See RCW 19.02.901.

Master license—Expiration date: RCW 19.02.090.

Master license system

definition: RCW 69.25.020(38).

existing licenses or permits registered under, when: RCW 19.02.810.

to include additional licenses: RCW 19.02.110.

69.25.060 Egg handler's or dealer's license—Late renewal fee. If the application for the renewal of an egg handler's or dealer's license is not filed before the master

license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license shall be issued. [1982 c 182 § 44; 1975 1st ex.s. c 201 § 7.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

delinquency fee—Rate—Disposition: RCW 19.02.085.

expiration date: RCW 19.02.090.

system—Existing licenses or permits registered under, when: RCW 19.02.810.

Chapter 69.50

UNIFORM CONTROLLED SUBSTANCES ACT

Sections

69.50.505 Seizure and forfeiture (as amended by 1982 c 171).
69.50.505 Seizure and forfeiture (as amended by 1982 c 189).

69.50.505 Seizure and forfeiture (as amended by 1982 c 171). (a)

The following are subject to seizure and forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (1) or (2), but:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) A conveyance is not subject to forfeiture for a violation of RCW 69.50.401(d);

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter the conveyance may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter;

(6) All drug paraphernalia; and

(7) All moneys, negotiable instruments, securities, or other intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter: *Provided*, That no property may be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) or (a)(7) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) or (a)(7) of this section within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) or (a)(7) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(4) or (a)(7) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds and all moneys forfeited under this title shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Fifty percent of the money remaining after payment of such expenses shall be deposited in the criminal justice training account established under RCW 43.101.210 which shall be appropriated by law to the Washington state criminal justice training commission and fifty percent shall be deposited in the general fund of the state, county, and/or city of the seizing law enforcement agency;

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants. [1982 c 171 § 1. Prior: 1981 c 67 § 32; 1981 c 48 § 3; 1977 ex.s. c 77 § 1; 1971 ex.s. c 308 § 69.50.505.]

Severability—Effective date—1982 c 171: See RCW 69.52.900 and 69.52.901.

69.50.505 Seizure and forfeiture (as amended by 1982 c 189). (a) The following are subject to seizure and forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (1) or (2), but:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) A conveyance is not subject to forfeiture for a violation of RCW 69.50.401(d); and,

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission;

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter; and

(6) All drug paraphernalia.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) of this section within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(4) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants. [1982 c 189 § 6. Prior: 1981 c 67 § 32; 1981 c 48 § 3; 1977 ex.s. c 77 § 1; 1971 ex.s. c 308 § 69.50.505.]

Reviser's note: RCW 69.50.505 was amended twice during the 1982 regular session of the legislature, each without reference to the other.

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

Effective date—1982 c 189: See note following RCW 34.12.020.

Severability—1981 c 48: See note following RCW 69.50.102.

- 69.52.040 Seizure of contraband.
- 69.52.050 Injunctive action by attorney general authorized.
- 69.52.060 Injunctive or other legal action by manufacturer of controlled substances authorized.
- 69.52.900 Severability—1982 c 171.
- 69.52.901 Effective date—1982 c 171.

69.52.010 Legislative findings. The legislature finds that imitation controlled substances are being manufactured to imitate the appearance of the dosage units of controlled substances for sale to school age youths and others to facilitate the fraudulent sale of controlled substances. The legislature further finds that manufacturers are endeavoring to profit from the manufacture of these imitation controlled substances while avoiding liability by accurately labeling the containers or packaging which contain these imitation controlled substances. The close similarity of appearance between dosage units of imitation controlled substances and controlled substances is indicative of a deliberate and wilful attempt to profit by deception without regard to the tragic human consequences. The use of imitation controlled substances is responsible for a growing number of injuries and deaths, and the legislature hereby declares that this chapter is necessary for the protection and preservation of the public health and safety. [1982 c 171 § 2.]

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

(1) "Controlled substance" means a substance as that term is defined in chapter 69.50 RCW.

(2) "Distribute" means the actual or constructive transfer (or attempted transfer) or delivery or dispensing to another of an imitation controlled substance.

(3) "Imitation controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(a) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(b) Statements made to the recipient that the substance may be resold for inordinate profit; or

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(4) "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, or labeling or relabeling of an imitation controlled substance. [1982 c 171 § 3.]

69.52.030 Violations—Exceptions. (1) It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall, upon conviction, be guilty of a class C felony.

(2) Any person eighteen years of age or over who violates subsection (1) of this section by distributing an

Chapter 69.52

IMITATION CONTROLLED SUBSTANCES

Sections

- 69.52.010 Legislative findings.
- 69.52.020 Definitions.
- 69.52.030 Violations—Exceptions.

imitation controlled substance to a person under eighteen years of age is guilty of a class B felony.

(3) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale imitation controlled substances. Any person who violates this subsection is guilty of a class C felony.

(4) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act pursuant to RCW 69.50.301 or 69.50.303 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in RCW 69.50.101(t), in the course of professional practice or research.

(5) This chapter shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401(c).

(6) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact. [1982 c 171 § 4.]

69.52.040 Seizure of contraband. Imitation controlled substances shall be subject to seizure, forfeiture, and disposition in the same manner as are controlled substances under RCW 69.50.505. [1982 c 171 § 5.]

69.52.050 Injunctive action by attorney general authorized. The attorney general is authorized to apply for injunctive action against a manufacturer or distributor of imitation controlled substances in this state. [1982 c 171 § 6.]

69.52.060 Injunctive or other legal action by manufacturer of controlled substances authorized. Any manufacturer of controlled substances licensed or registered in a state requiring such licensure or registration, may bring injunctive or other action against a manufacturer or distributor of imitation controlled substances in this state. [1982 c 171 § 7.]

69.52.900 Severability—1982 c 171. 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. [1982 c 171 § 8.]

69.52.901 Effective date—1982 c 171. This act shall take effect on July 1, 1982. [1982 c 171 § 10.]

Chapter 69.54

DRUG AND ALCOHOL REHABILITATION, EDUCATION PROGRAMS—DRUG TREATMENT CENTERS

Sections	
69.54.010	Purpose.
69.54.020	Definitions.
69.54.040	Programs for rehabilitation and education—Establishment—Rules and regulations—Contracts with other agencies, individuals.
69.54.050	Agreements pursuant to interlocal cooperation act authorized.
69.54.060	Consent to counseling, care, treatment or rehabilitation—Liability for expenses.
69.54.070	Confidentiality.
69.54.080	Confidentiality—Exception as to statistical or other substantive information.
69.54.090	Records and accounts—Availability to state and federal drug inspectors—Restrictions on use.
69.54.100	County drug abuse program—State support, requirements.
69.54.110	County drug abuse program—State and local support.
69.54.120	County drug abuse administrative board—Members, qualifications, terms—Powers, duties.
69.54.130	County drug abuse coordinator.

69.54.010 Purpose. It is the purpose of this chapter to provide the financial assistance necessary to enable the department of social and health services to offer a meaningful program of rehabilitation for those persons suffering problems related to narcotic drugs, dangerous drugs, and alcohol and to develop a community educational program as to those problems for the benefit of the state's population generally. Such programs can develop in the people of this state a knowledge of the problems caused by alcohol and drug abuse, an acceptance of responsibility for alcohol and drug related problems, an understanding of the causes and consequences of the use and abuse of alcohol and drugs, and thus may prevent many problems from occurring.

It is the further purpose of this chapter to provide for qualified drug treatment centers approved by the department of social and health services. [1982 c 193 § 13; 1971 ex.s. c 304 § 1.]

69.54.020 Definitions. The following words and phrases shall have the following meaning when used in this chapter:

(1) "Secretary" shall mean the secretary of the department of social and health services.

(2) "Department" shall mean the department of social and health services.

(3) "Drug and alcohol rehabilitation program" shall mean the program developed by the department of social and health services to aid persons suffering problems related to narcotic drugs, dangerous drugs, and alcohol.

(4) "Drug and alcohol educational program" shall mean the program developed by the department of social and health services outside of the kindergarten through twelve programs in the schools to educate the people of this state relative to the use and abuse of narcotic drugs, dangerous drugs and alcohol, and the prevention and consequences thereof.

(5) "Drug treatment center" shall mean any organization, institution, or corporation, public or private, engaged in the care, treatment, or rehabilitation of persons using narcotic drugs or dangerous drugs. [1982 c 193 § 14; 1971 ex.s. c 304 § 2.]

69.54.040 Programs for rehabilitation and education—Establishment—Rules and regulations—Contracts with other agencies, individuals. The secretary shall establish within the department a program designed to aid and rehabilitate persons suffering from problems relating to narcotic drugs, dangerous drugs, and alcohol. Without duplicating, and in coordination with the programs established by the state superintendent of public instruction, the secretary shall establish community educational programs outside of the kindergarten through twelve programs in the schools relating to alcohol and drug use and abuse. The secretary is authorized to promulgate rules and regulations pursuant to chapter 34.04 RCW to carry out the provisions and purposes of this chapter and is authorized to contract, cooperate and coordinate with other public or private agencies or individuals for such purposes. [1982 c 193 § 15; 1971 ex.s. c 304 § 4.]

69.54.050 Agreements pursuant to interlocal cooperation act authorized. Pursuant to the provisions of the Interlocal Cooperation Act, chapter 39.34 RCW, the department may enter into agreements as provided therein to accomplish the purposes of this chapter. [1982 c 193 § 16; 1971 ex.s. c 304 § 5.]

69.54.060 Consent to counseling, care, treatment or rehabilitation—Liability for expenses. Any person fourteen years of age or older may give consent for himself to the furnishing of counseling, care, treatment or rehabilitation by an approved drug treatment center, an approved alcoholism treatment facility, or a person licensed or certified by the state related to conditions and problems caused by drug or alcohol abuse. Consent of the parent, parents, or legal guardian of a person less than eighteen years of age shall not be necessary to authorize such care, except that such person shall not become a resident of such treatment center without parental permission. The parent, parents or legal guardian of a person less than eighteen years of age shall not be liable for payment of care for such persons pursuant to this chapter, unless they have joined in the consent to such counseling, care, treatment or rehabilitation. [1982 c 193 § 17; 1971 ex.s. c 304 § 8.]

69.54.070 Confidentiality. When an individual submits himself for care, treatment, counseling, or rehabilitation to any organization, institution or corporation, public or private, approved pursuant to this chapter, or any person licensed or certified by the state whose principal function is the care, treatment, counseling or rehabilitation of alcohol abusers or users of narcotic or dangerous drugs, or the providing of medical, psychological or social counseling or treatment, notwithstanding any other provision of law, such individual is hereby

guaranteed confidentiality. No such person, organization, institution or corporation or their agents acting in the scope and course of their duties, providing such care, treatment, counseling or rehabilitation shall divulge nor shall they be required to provide any specific information concerning individuals being cared for, treated, counseled or rehabilitated, nor shall pharmacists or their agents provide such information when or if they become aware of or receive such information when requested to or for the purpose of providing products or performing services relevant to said care, treatment, counseling or rehabilitation. Should any person, organization, institution or corporation, or their agents, breach confidentiality as provided for in this section, such information and any product thereof shall not be admissible as evidence or be considered in any criminal proceeding. The fact of an individual of authorized age being cared for, treated, counseled or rehabilitated pursuant to this chapter shall likewise be held confidential and shall not be admissible as evidence or be considered in any criminal proceeding.

Any confidentiality provided for by this section may be waived by the individual, provided such waiver is freely and voluntarily made, and with full prior information as to the consequences thereof. [1982 c 193 § 18; 1971 ex.s. c 304 § 9.]

69.54.080 Confidentiality—Exception as to statistical or other substantive information. Nothing contained in this chapter shall prohibit or be construed to prohibit the divulging or providing of statistical or other substantive information pertaining to care, treatment, counseling or rehabilitation, pursuant to this chapter, so long as no individual is identified or reasonably identifiable, and individual privacy and confidentiality are retained. [1982 c 193 § 19; 1971 ex.s. c 304 § 10.]

69.54.090 Records and accounts—Availability to state and federal drug inspectors—Restrictions on use. Nothing contained in this chapter shall relieve any person or firm from the requirements under federal and state drug laws and regulations for the keeping of records and the responsibility for the accountability of drugs received and dispensed. Such records, insofar as they contain confidential information under this chapter, shall only be available to state and federal drug inspectors who shall not divulge such information as is contained in these records, including the identification of individuals, except (1) upon subpoena in a court or administrative proceeding to which the person to whom such prescription, orders or other records relate is a party, or (2) when the information reasonably leads to the conclusion that there has been a violation of chapter 69.50 RCW, then the information may be referred to other law enforcement officers. [1982 c 193 § 20; 1971 ex.s. c 304 § 11.]

69.54.100 County drug abuse program—State support, requirements. (1) A county legislative authority, or two or more counties acting jointly, may establish a

drug abuse program. If two or more counties jointly establish a drug abuse program, one county shall be designated to provide administrative and financial services.

(2) To be eligible for funds from the department for the support of the county drug abuse program, the county legislative authority must establish a county drug abuse administrative board and appoint a county drug abuse coordinator.

(3) The county legislative authority may apply to the department for financial support for the county drug abuse program. To receive the financial support, the county legislative authority shall submit a plan which meets the following conditions:

(a) It shall describe the services and activities to be provided;

(b) It shall include anticipated expenditures and revenues;

(c) It shall be reviewed by the county drug abuse administrative board and adopted by the county legislative authority;

(d) It shall reflect maximum effective use of existing services and facilities; and

(e) Such other conditions as the secretary may require.

(4) The county is authorized to accept and expend gifts, grants, and fees, from public and private sources, to implement its drug abuse program. [1982 c 193 § 8.]

69.54.110 County drug abuse program—State and local support. To be eligible for financial support from the department for the county drug abuse program:

(1) Any increase in state financial support shall not be used to supplant local funds from any source which was used to support the drug abuse program prior to the effective date of the increase; and

(2) At least ten percent of the cost of the drug abuse program shall be provided from local public or private sources. When deemed necessary to maintain proper standards of care, the secretary may by rule require that up to fifty percent of the cost of the drug abuse program shall be provided through fees, gifts, contributions, volunteer services, or appropriated local funds. [1982 c 193 § 11.]

69.54.120 County drug abuse administrative board—Members, qualifications, terms—Powers, duties. (1) The county legislative authority shall appoint a county drug abuse administrative board. Such a board may also be designated as the board for other related programs.

(2) The county drug abuse administrative board shall consist of not less than seven nor more than fifteen members. Board members shall serve three-year terms and until their successors are appointed and qualified, except that initially appointed members may serve shorter terms so that an equal number of vacancies occur each year. Members of the board shall be representative of the community and shall include, where possible, former clients, relatives of clients, and members

of minority groups and other special groups of local significance. Employees of agencies providing services under RCW 69.54.040 and persons with a financial interest in such agencies shall not be appointed to the board. No more than four elected or appointed city or county officials may serve on the board at the same time. Members shall not be compensated for their duties as members of the board, but may be reimbursed for travel expenses.

(3) The county drug abuse administrative board shall:

(a) Nominate individuals for the position of county drug abuse coordinator;

(b) Conduct public hearings and other investigations to determine the needs and priorities of county citizens;

(c) Review and recommend to the county legislative authority for approval plans, budgets, and applications by the county to the department;

(d) Evaluate the performance of the drug abuse program at least annually;

(e) Advise the county legislative authority and the county coordinator on matters relating to the drug abuse programs; and

(f) Such other duties as the department may prescribe by rule. [1982 c 193 § 9.]

Alcoholism administrative board may be designated for other programs: RCW 70.96.160.

69.54.130 County drug abuse coordinator. (1) The chief executive officer of the county drug abuse program shall be the county drug abuse coordinator. The coordinator shall:

(a) Provide general supervision over the drug abuse program;

(b) Prepare plans or applications for funds to support the drug abuse program;

(c) Monitor the delivery of services to assure conformance with plans and contracts; and

(d) Provide staff support to the county drug abuse administrative board.

(2) The county drug abuse coordinator shall be appointed by the county legislative authority from nominations submitted by the drug abuse administrative board. The nominees shall meet the minimum qualifications established by rule of the department. Nominees need not be a resident of the county, city, or state. The coordinator may serve on either a full-time or part-time basis. The coordinator may be an employee of a private agency under contract to provide services pursuant to RCW 69.54.040 only with the prior approval of the secretary. [1982 c 193 § 10.]

Title 70

PUBLIC HEALTH AND SAFETY

Chapters

70.08 Combined city-county health departments.

70.37 Health care facilities.

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- 70.39 Hospital health care services—Hospital commission.
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Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.*

**Chapter 70.08
COMBINED CITY-COUNTY HEALTH
DEPARTMENTS**

- Sections
70.08.070 Employees may be included in civil service or retirement plans of city, county, or combined department.

70.08.070 Employees may be included in civil service or retirement plans of city, county, or combined department. Notwithstanding any provisions to the contrary contained in any city or county charter, and to the extent provided by the city and the county pursuant to appropriate legislative enactment, employees of the combined city and county health department may be included in the personnel system or civil service and retirement plans of the city or the county or a personnel system for the combined city and county health department that is separate from the personnel system or civil service of either county or city: *Provided*, That residential requirements for such positions shall be coextensive with the county boundaries: *Provided further*, That the city or county is authorized to pay such parts of the expense of operating and maintaining such personnel system or civil service and retirement system and to contribute to the retirement fund in behalf of employees such sums as may be agreed upon between the legislative authorities of such city and county. [1982 c 203 § 1; 1980 c 57 § 2; 1949 c 46 § 5; Rem. Supp. 1949 § 6099-34.]

**Chapter 70.37
HEALTH CARE FACILITIES**

- Sections
70.37.100 Powers of authority.

70.37.100 Powers of authority. The authority may make contracts, employ or engage engineers, architects, attorneys, an executive director, and other technical or professional assistants, and such other personnel as are necessary. It may delegate to the executive director or other appropriate persons the power to execute legal instruments on its behalf. It may enter into contracts with the United States, accept gifts for its purposes, and exercise any other power reasonably required to implement the principal powers granted in this chapter. No provision of this chapter shall be construed so as to limit the power of the authority to provide bond financing to more than one participant and/or project by means of a single issue of revenue bonds utilizing a single bond fund and/or a single special fund into which proceeds of such bonds are deposited. The authority shall have no power to levy any taxes of any kind or nature and no power to incur obligations on behalf of the state of Washington. [1982 c 10 § 14. Prior: 1981 c 121 § 2; 1981 c 31 § 1; 1974 ex.s. c 147 § 10.]

Severability—1982 c 10: See note following RCW 6.12.100.

**Chapter 70.38
HEALTH PLANNING AND RESOURCES
DEVELOPMENT**

- Sections
70.38.025 Definitions.
70.38.105 Health services and facilities requiring certificate of need.
70.38.111 Certificates of need—Exemptions.

70.38.025 Definitions. When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Annual implementation plan" means a description of objectives which will achieve goals of the health systems plan and specific priorities among the objectives. The annual implementation plan is for a one-year period and must be reviewed and amended as necessary on an annual basis.

(2) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(3) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any

studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(4) "Council" means the state health coordinating council created in RCW 70.38.055 and described in Public Law 93-641.

(5) "Department" means the state department of social and health services.

(6) "Expenditure minimum" means, for the purposes of the certificate of need program, six hundred thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index established by rules and regulations by the department of social and health services for the purpose of making such adjustment.

(7) "Health care facility" means hospitals, psychiatric hospitals, tuberculosis hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, rehabilitation facilities, and home health agencies, and includes such facilities when owned and operated by the state or by a political subdivision or instrumentality of the state and such other facilities as required by Public Law 93-641 and implementing regulations, but does not include Christian Science sanatoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts.

(8) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health Services Act; or

(b) (i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

(9) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in Public Law 93-641.

(10) "Health systems agency" means a public regional planning body or a private nonprofit corporation which

is organized and operated in a manner that is consistent with the laws of the state of Washington and Public Law 93-641 and which is capable of performing each of the functions described in RCW 70.38.085 and is capable as determined by the secretary of the United States department of health and human services, upon recommendation of the governor or of the council, of performing each of the functions described in the federal law.

(11) "Health systems plan" means a detailed statement of goals and resources required to reach those goals as described in Public Law 93-641. Goals describe a healthful environment and health systems in the health service area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; are responsive to the unique needs and resources of the health service area; take into account national guidelines for health planning policy and are responsive to state-wide health needs as determined by the department. The health systems plan also describes institutional health services and such other services as described in Public Law 96-79 as needed to provide for the well-being of persons receiving care within the health service area. The health system plan shall describe the number and type of resources including facilities, personnel, medical equipment, and other resources required to meet the goals in the health system plan and shall state the extent to which existing health care facilities are in need of modernization or conversion and the extent to which new facilities need to be constructed or acquired. The health system plan shall be developed in accordance with a format established by the council and shall be reviewed and amended as necessary but at least triennially.

(12) "Institutional health services" means health services provided in or through health care facilities and entailing annual operating costs of at least two hundred fifty thousand dollars for the twelve-month period beginning with October 1979, and for each twelve-month period thereafter the figure in effect for the preceding twelve-month period, adjusted to reflect the change in the preceding twelve-month period in an index established by rules and regulations by the department of social and health services.

(13) "Long-range health facility plan" means a document prepared by each hospital which contains a description of its plans for substantial changes in its facilities and services for three years.

(14) "Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of four hundred thousand dollars, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such act;

(15) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

(16) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be in accord with Public Law 93-641.

(17) "Public Law 93-641", for the purposes of this chapter, refers to Titles XV and XVI of the Public Health Service Act as amended by the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79).

(18) "State health plan" means a document, described in Public Law 96-79, developed by the department and the council in accordance with RCW 70.38.065. [1982 c 119 § 1; 1980 c 139 § 2; 1979 ex.s. c 161 § 2.]

70.38.105 Health services and facilities requiring certificate of need. (1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is consistent with the provisions of Public Law 93-641.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) Any capital expenditure by or on behalf of a health care facility which substantially changes the services of the facility after January 1, 1981;

(c) Any capital expenditure by or on behalf of a health care facility which exceeds the expenditure minimum as defined by RCW 70.38.025(6);

(d) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among facility and service categories of acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months;

(e) Acquisition of major medical equipment:

(i) If the equipment will be owned by or located in a health care facility; or

(ii) If, after January 1, 1981, the equipment is not to be owned by or located in a health care facility, the department finds consistent with federal regulations the equipment will be used to provide services for hospital inpatients, or the person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements for such acquisition;

(f) Any new institutional health services which are offered in or through a health care facility, and which were not offered on a regular basis by, in, or through

such health care facility within the twelve-month period prior to the time such services would be offered; and

(g) Any expenditure by or on behalf of a health care facility in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings, and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made.

(5) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section. [1982 c 119 § 2; 1980 c 139 § 7; 1979 ex.s. c 161 § 10.]

Effective date—1980 c 139: See RCW 70.38.916.

Effective dates—1979 ex.s. c 161: See RCW 70.38.915.

70.38.111 Certificates of need—Exemptions. (1) The department shall not require a certificate of need for the offering of an inpatient institutional health service or the acquisition of major medical equipment for the provision of an inpatient institutional health service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by—

(a) a health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination,

(b) a health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination, or

(c) a health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted

under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization,

if, with respect to such offering, acquisition, or obligation, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering an institutional health service, acquiring major medical equipment, or obligating capital expenditures unless—

(a) it has submitted at least thirty days prior to the offering of an institutional health service, acquiring major medical equipment, or obligating capital expenditures in excess of the expenditure minimum an application for such exemption, and

(b) the application contains such information respecting the organization, combination, or facility and the proposed offering, acquisition, or obligation as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements, and

(c) the department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide institutional health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) or medical equipment with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless—

(a) the department issues a certificate of need approving the sale, lease, acquisition, or use, or

(b) the department determines, upon application, that (i) the entity to which the facility or equipment is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of

health maintenance organizations which meets the requirements of (1)(a) (i), and (ii) with respect to such facility or equipment, meets the requirements of (1)(a) (ii) or (iii) or the requirements of (1)(b) (i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements only to the offering of inpatient institutional health services and the acquisition of major medical equipment and the obligation of capital expenditures for the offering of inpatient institutional health services, and then only to the extent that such offering, acquisition, or obligation is not exempt under the provisions of this section. [1982 c 119 § 3; 1980 c 139 § 9.]

Chapter 70.39

HOSPITAL HEALTH CARE SERVICES— HOSPITAL COMMISSION

Reviser's note—Sunset Act application: The hospital commission is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.253. RCW 70.39.010, 70.39.020, 70.39.030, 70.39.040, 70.39.050, 70.39.060, 70.39.070, 70.39.080, 70.39.090, 70.39.100, 70.39.110, 70.39.120, 70.39.130, 70.39.140, 70.39.150, 70.39.160, 70.39.170, 70.39.180, 70.39.190, 70.39.200, 70.39.900, and 70.39.910 are scheduled for future repeal under RCW 43.131.254.

Chapter 70.41

HOSPITAL LICENSING AND REGULATION

Sections

70.41.100	Applications for licenses and renewals—Fees.
70.41.110	Licenses, provisional licenses—Issuance, duration, assignment, posting.

70.41.100 Applications for licenses and renewals—Fees. An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires which may include affirmative evidence of ability to comply with the standards, rules, and regulations as are lawfully prescribed hereunder. An application for renewal of license shall be made to the department upon forms provided by it and submitted thirty days prior to the date of expiration of the license. Each application for a license or renewal thereof by a hospital as defined by this chapter shall be accompanied by a fee as established by the department under RCW 43.20A.055. [1982 c 201 § 9; 1955 c 267 § 10.]

70.41.110 Licenses, provisional licenses—Issuance, duration, assignment, posting. Upon receipt of an application for license and the license fee, the department shall issue a license or a provisional license if the applicant and the hospital facilities meet the requirements of

this chapter and the standards, rules and regulations established by the board. All licenses issued under the provisions of this chapter shall expire on a date to be set by the department: *Provided*, That no license issued pursuant to this chapter shall exceed thirty-six months in duration. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

If there be a failure to comply with the provisions of this chapter or the standards, rules and regulations promulgated pursuant thereto, the department may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the hospital for a period to be determined by the department. [1982 c 201 § 12; 1971 ex.s. c 247 § 3; 1955 c 267 § 11.]

Chapter 70.44

PUBLIC HOSPITAL DISTRICTS

Sections	
70.44.003	Purpose.
70.44.005	Repealed.
70.44.007	Definitions.
70.44.016	Validation of districts.
70.44.025	Repealed.
70.44.028	Limitation on legal challenges.
70.44.045	Commissioners—Vacancies.
70.44.050	Commissioners—Compensation—Expenses—Insurance—Resolutions by majority vote—Officers—Rules—Seal—Records.
70.44.060	Powers and duties.
70.44.061	Repealed.
70.44.070	Superintendent—Appointment—Removal—Compensation.
70.44.080	Superintendent—Powers.
70.44.090	Superintendent—Duties.
70.44.100	Repealed.
70.44.150	Repealed.
70.44.160	Repealed.
70.44.240	Contracting or joining with other districts, hospitals, corporations, or individuals to provide services or facilities.
70.44.250	Repealed.
70.44.300	Sale of surplus real property.
70.44.310	Lease of surplus real property.
70.44.320	Disposal of surplus personal property.
70.44.350	Dividing a district.
70.44.360	Dividing a district—Plan.
70.44.370	Dividing a district—Petition to court, hearing, order.
70.44.380	Dividing a district—Election—Creation of new districts—Challenges.
70.44.902	Severability—1982 c 84.
70.44.903	Savings—1982 c 84.

70.44.003 Purpose. The purpose of chapter 70.44 RCW is to authorize the establishment of public hospital districts to own and operate hospitals and other health care facilities and to provide hospital services and other health care services for the residents of such districts and other persons. [1982 c 84 § 1.]

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

70.44.007 Definitions. As used in this chapter, the following words shall have the meanings indicated:

(1) The words "other health care facilities" shall mean nursing home, extended care, long-term care, outpatient and rehabilitative facilities, ambulances, and such other facilities as are appropriate to the health needs of the population served.

(2) The words "other health care services" shall mean nursing home, extended care, long-term care, outpatient, rehabilitative, health maintenance, and ambulance services and such other services as are appropriate to the health needs of the population served. [1982 c 84 § 12; 1974 ex.s. c 165 § 5.]

70.44.016 Validation of districts. Each and all of the respective areas of land attempted to be organized into public hospital districts prior to June 10, 1982, under the provisions of chapter 70.44 RCW where the canvass of the election on the proposition of creating a public hospital district shows the passage of the proposition are validated and declared to be duly existing public hospital districts having the respective boundaries set forth in their organization proceedings as shown by the files in the office of the legislative authority of the county in question, and by the files of such districts. [1982 c 84 § 10.]

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

70.44.028 Limitation on legal challenges. Unless commenced within thirty days after the date of the filing of the certificate of the canvass of an election on the proposition of creating a new public hospital district pursuant to chapter 70.44 RCW, no lawsuit whatever may be maintained challenging in any way the legal existence of such district or the validity of the proceedings had for the organization and creation thereof. If the creation of a district is not challenged within the period specified in this section, the district conclusively shall be deemed duly and regularly organized under the laws of this state. [1982 c 84 § 9.]

70.44.045 Commissioners—Vacancies. A vacancy in the office of commissioner shall occur by death, resignation, removal, conviction of felony, nonattendance at meetings of the commission for sixty days, unless excused by the commission, by any statutory disqualification, by any permanent disability preventing the proper discharge of his duty, or by creation of positions pursuant to RCW 70.44.051, et seq. A vacancy or vacancies on the board shall be filled by appointment by the remaining commissioner or commissioners until the next regular election for commissioners as provided by RCW 70.44.040: *Provided*, That if there is only one remaining commissioner, one vacancy shall be filled by appointment by the remaining commissioner and the remaining vacancy or vacancies shall be filled by appointment by the then two commissioners and the appointed commissioners shall serve until the next regular election for

commissioners: *Provided further*, That if there is a vacancy of the entire board, a new board may be appointed by the board of county commissioners or county council. [1982 c 84 § 13; 1955 c 82 § 2.]

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 forty dollars for each day or major part thereof devoted to the business of the district, and days upon which he attends meetings of the commission of his own district, or meetings attended by one or more commissioners of two or more districts called to consider business common to them, except that the total compensation paid to such commissioner during any one year shall not exceed two thousand four 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. [1982 c 84 § 14; 1975 c 42 § 1; 1965 c 157 § 1; 1945 c 264 § 15; Rem. Supp. 1945 § 6090–44.]

70.44.060 Powers and duties. All public hospital districts organized under the provisions of this chapter shall have power:

(1) To make a survey of existing hospital and other health care facilities within and without such district.

(2) To construct, condemn and purchase, acquire, lease, add to, maintain, operate, develop and regulate, sell and convey all lands, property, property rights, equipment, hospital and other health care facilities and systems for the maintenance of hospitals, buildings, structures, and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the commission and conducted in the same manner and by the same procedure as in or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: *Provided*, That no public hospital district shall have the right of eminent domain and the power of condemnation against any health care facility.

(3) To lease existing hospital and other health care facilities and equipment and/or other property used in connection therewith, including ambulances, and to pay such rental therefor as the commissioners shall deem proper; to provide hospital and other health care services for residents of said district by facilities located outside the boundaries of said district, by contract or in any other manner said commissioners may deem expedient or necessary under the existing conditions; and said hospital district shall have the power to contract with other communities, corporations, or individuals for the services provided by said hospital district; and they may further receive in said hospitals and other health care facilities and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper: *Provided*, That it must at all times make adequate provision for the needs of the district and residents of said district shall have prior rights to the available hospital and other health care facilities of said district, at rates set by the district commissioners.

(4) For the purpose aforesaid, it shall be lawful for any district so organized to take, condemn and purchase, lease, or acquire, any and all property, and property rights, including state and county lands, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance, and operation of any such hospitals and other health care facilities, subject, however, to the applicable limitations provided in subsection (2) of this section.

(5) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, and to issue (a) revenue bonds or warrants therefor payable solely out of a special fund or funds into which the district may pledge such amount of the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, to pay the same as the commissioners of the district may determine, such revenue bonds, warrants, or other obligations to be issued in the same manner and subject to the same provisions as provided for the issuance of revenue bonds, warrants, or other obligations by cities or towns under the Municipal Revenue Bond Act, chapter 35.41 RCW, as may hereafter be amended, (b) general obligation bonds therefor in the manner and form as provided in RCW 70.44.110 to 70.44.130, inclusive, as may hereafter be amended, or (c) interest-bearing warrants to be drawn on a fund pending deposit in such fund of money sufficient to redeem such warrants and to be issued and paid in such manner and upon such terms and conditions as the board of commissioners may deem to be in the best interest of the district; and to assign or sell hospital accounts receivable, and accounts receivable for the use of other facilities or services that the district is or hereafter may be authorized by law to provide, for collection with or without recourse.

(6) To raise revenue by the levy of an annual tax on all taxable property within such public hospital district not to exceed seventy-five cents per thousand dollars of assessed value or such further amount as has been or shall be authorized by a vote of the people: *Provided further*, That the public hospital districts are hereby authorized to levy such a general tax in excess of said seventy-five cents per thousand dollars of assessed value when authorized so to do at a special election conducted in accordance with and subject to all of the requirements of the Constitution and the laws of the state of Washington now in force or hereafter enacted governing the limitation of tax levies. The said board of district commissioners is hereby authorized and empowered to call a special election for the purpose of submitting to the qualified voters of the hospital district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The superintendent shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file the same in the records of the commission on or before the first Monday in September. Notice of the filing of said proposed budget and the date and place of hearing on the same shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in said county. On the first Monday in October the commission shall hold a public hearing on said proposed budget at which any taxpayer may appear and be heard against the whole or any part of the proposed budget. Upon the conclusion of said hearing, the commission shall, by resolution, adopt the budget as finally determined and fix the final amount of expenditures for the ensuing year. Taxes levied by the commission shall be certified to and collected by the proper county officer of the county in which such public hospital district is located in the same manner as is or may be provided by law for the certification and collection of port district taxes. The commission is authorized, prior to the receipt of taxes raised by levy, to borrow money or issue warrants of the district in anticipation of the revenue to be derived by such district from the levy of taxes for the purpose of such district, and such warrants shall be redeemed from the first money available from such taxes when collected, and such warrants shall not exceed the anticipated revenues of one year, and shall bear interest at a rate or rates as authorized by the commission.

(7) To enter into any contract with the United States government or any state, municipality, or other hospital district, or any department of those governing bodies, for carrying out any of the powers authorized by this chapter.

(8) To sue and be sued in any court of competent jurisdiction: *Provided*, That all suits against the public hospital district shall be brought in the county in which the public hospital district is located.

(9) To pay actual necessary travel expenses and living expenses incurred while in travel status for (a) qualified physicians who are candidates for medical staff positions, and (b) other qualified persons who are candidates for superintendent or other managerial and technical

positions, when the district finds that hospitals or other health care facilities owned and operated by it are not adequately staffed and determines that personal interviews with said candidates to be held in the district are necessary or desirable for the adequate staffing of said facilities.

(10) To make contracts, employ superintendents, attorneys, and other technical or professional assistants and all other employees; to make contracts with private or public institutions for employee retirement programs; to print and publish information or literature; and to do all other things necessary to carry out the provisions of this chapter. [1982 c 84 § 15; 1979 ex.s. c 155 § 1; 1979 ex.s. c 143 § 4; 1977 ex.s. c 211 § 1; 1974 ex.s. c 165 § 2; 1973 1st ex.s. c 195 § 83; 1971 ex.s. c 218 § 2; 1970 ex.s. c 56 § 85; 1969 ex.s. c 65 § 1; 1967 c 164 § 7; 1965 c 157 § 2; 1949 c 197 § 18; 1945 c 264 § 6; Rem. Supp. 1949 § 6090-35.]

Severability—1979 ex.s. c 155: "If any provision of this 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." [1979 ex.s. c 155 § 3.]

Severability—1979 ex.s. c 143: See note following RCW 70.44.200.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Effective date—Purpose—1970 ex.s. c 56: See notes following RCW 39.44.030.

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Eminent domain: State Constitution Art. 1 § 16.

Eminent domain by cities: Chapter 8.12 RCW.

Limitation on levies: State Constitution Art. 7 § 2; RCW 84.52.050.

Port districts, collection of taxes: RCW 53.36.020.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

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

70.44.070 Superintendent—Appointment—Removal—Compensation. The public hospital district commission shall appoint a superintendent, who shall be appointed for an indefinite time and be removable at the will of the commission. Appointments and removals shall be by resolution, introduced at a regular meeting and adopted at a subsequent regular meeting by a majority vote. He shall receive such compensation as the commission shall fix by resolution. [1982 c 84 § 16; 1945 c 264 § 7; Rem. Supp. 1945 § 6090-36.]

70.44.080 Superintendent—Powers. The superintendent shall be the chief administrative officer of the public district hospital and shall have control of administrative functions of the district. He shall be responsible to the commission for the efficient administration of all affairs of the district. In case of the absence or temporary disability of the superintendent a competent person shall be appointed by the commission. The superintendent shall be entitled to attend all meetings of the commission and its committees and to take part in the discussion of any matters pertaining to the district, but

shall have no vote. [1982 c 84 § 17; 1945 c 264 § 9; Rem. Supp. 1945 § 6090–38.]

70.44.090 Superintendent—Duties. The public hospital district superintendent shall have power, and it shall be his duty:

(1) To carry out the orders of the commission, and to see that all the laws of the state pertaining to matters within the functions of the district are duly enforced.

(2) To keep the commission fully advised as to the financial condition and needs of the district. To prepare, each year, an estimate for the ensuing fiscal year of the probable expenses of the district, and to recommend to the commission what development work should be undertaken, and what extensions and additions, if any, should be made, during the ensuing fiscal year, with an estimate of the costs of such development work, extensions and additions. To certify to the commission all the bills, allowances and payrolls, including claims due contractors of public works. To recommend to the commission a range of salaries to be paid to district employees. [1982 c 84 § 18; 1945 c 264 § 11; Rem. Supp. 1945 § 6090–40.]

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

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

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

70.44.240 Contracting or joining with other districts, hospitals, corporations, or individuals to provide services or facilities. Any public hospital district may contract or join with any other public hospital district, any publicly owned hospital, any nonprofit hospital, any corporation, or individual to acquire or provide services or facilities to be used by individuals, districts, hospitals, or others, including the providing of health maintenance services. [1982 c 84 § 19; 1974 ex.s. c 165 § 4; 1967 c 227 § 3.]

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

70.44.300 Sale of surplus real property. (1) The board of commissioners of any public hospital district may sell and convey at public or private sale real property of the district which the board has determined by resolution is no longer required for public hospital district purposes. Such sale and conveyance may be by deed or real estate contract.

(2) Any sale of district real property authorized pursuant to this section shall be preceded, not more than one year prior to the date of sale, by market value appraisals by three licensed real estate brokers selected by the board of commissioners, and no sale shall take place if the sale price would be less than ninety percent of the average of such appraisals.

(3) When the board of commissioners of any public hospital district proposes a sale of district real property

pursuant to this section and the value of the property exceeds one hundred thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper of general circulation within the public hospital district. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the public hospital district property at the place and the day and hour fixed in the notice and consider evidence offered for and against the propriety and advisability of the proposed sale.

(4) If in the judgment of the board of commissioners of any district the sale of any district real property not needed for public hospital district purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded. The fee or commissions charged for any broker service shall not exceed seven percent of the resulting sale price for a single parcel. No licensed real estate broker selected by the board to appraise the market value of a parcel of property to be sold may be a party to any contract with the public hospital district to sell such property for a period of three years after the appraisal. [1982 c 84 § 2.]

70.44.310 Lease of surplus real property. The board of commissioners of any public hospital district may lease or rent out real property of the district which the board has determined by resolution presently is not required for public hospital district purposes in such manner and upon such terms and conditions as the board in its discretion finds to be in the best interest of the district. [1982 c 84 § 3.]

70.44.320 Disposal of surplus personal property. The board of commissioners of any public hospital district may sell or otherwise dispose of surplus personal property of the district which the board has determined by resolution is no longer required for public hospital district purposes in such manner and upon such terms and conditions as the board in its discretion finds to be in the best interest of the district. [1982 c 84 § 4.]

70.44.350 Dividing a district. An existing public hospital district upon resolution of its board of commissioners may be divided into two new public hospital districts, in the manner provided in RCW 70.44.350 through 70.44.380, subject to the approval of the plan therefor by the superior court in the county where such district is located and by a majority of the voters voting on the proposition for such approval at a special election to be held in each of the proposed new districts. The board of commissioners of an existing district shall by resolution or resolutions find that such division is in the public interest; adopt and approve a plan of division; authorize the filing of a petition in the superior court in the county in which the district is located to obtain court approval of the plan of division; request the calling of a

special election to be held, following such court approval, for the purpose of submitting to the voters in each of the proposed new districts the proposition of whether the plan of division should be approved and carried out; and direct all officers and employees of the existing district to take whatever actions are reasonable and necessary in order to carry out the division, subject to the approval of the plan therefor by the court and the voters. [1982 c 84 § 5.]

70.44.360 Dividing a district—Plan. The plan of division authorized by RCW 70.44.350 shall include: Proposed names for the new districts; a description of the boundaries of the new districts, which boundaries shall follow insofar as reasonably possible the then-existing precinct boundaries and include all of the territory encompassed by the existing district; a division of all the assets of the existing district between the resulting new districts, including funds, rights, and property, both real and personal; the assumption of all the outstanding obligations of the existing district by the resulting new districts, including general obligation and revenue bonds, contracts, and any other liabilities or indebtedness; the establishing and constituting of new boards of three commissioners for each of the new districts, including fixing the boundaries of commissioner districts within such new districts following insofar as reasonably possible the then-existing precinct boundaries; and such other matters as the board of commissioners of the existing district may deem appropriate. Unless the plan of division provides otherwise, all the area and property of the existing district shall remain subject to the outstanding obligations of that district, and the boards of commissioners of the new districts shall make such levies or charges for services as may be necessary to pay such outstanding obligations in accordance with their terms from the sources originally pledged or otherwise liable for that purpose. [1982 c 84 § 6.]

70.44.370 Dividing a district—Petition to court, hearing, order. After adoption of a resolution approving the plan of division by the board of commissioners of an existing district pursuant to RCW 70.44.350 through 70.44.380, the district shall petition the superior court in the county where such district is located requesting court approval of the plan. The court shall conduct a hearing on the plan of division, after reasonable and proper notice of such hearing (including notice to bondholders) is given in the manner fixed and directed by such court. At the conclusion of the hearing, the court may enter its order approving the division of the existing district and of its assets and outstanding obligations in the manner provided by the plan after finding such division to be fair and equitable and in the public interest. [1982 c 84 § 7.]

70.44.380 Dividing a district—Election—Creation of new districts—Challenges. Following the entry of the court order pursuant to RCW 70.44.370, the county officer authorized to call and conduct elections in the county in which the existing district is located shall

call a special election as provided by the resolution of the board of commissioners of such district for the purpose of submitting to the voters in each of the proposed new districts the proposition of whether the plan of division should be approved and carried out. Notice of the election describing the boundaries of the proposed new districts and stating the objects of the election shall be given and the election conducted in accordance with the general election laws. The proposition expressed on the ballots at such election shall be substantially as follows:

"Shall the plan of division of public hospital district No. -----, approved by the Superior Court on ----- (insert date), be approved and carried out?

Yes

No

At such election three commissioners for each of the proposed new districts nominated by petition pursuant to RCW 54.12.010 shall be elected to hold office pursuant to RCW 70.44.040. If at such election a majority of the voters voting on the proposition in each of the proposed new districts shall vote in favor of the plan of division, the county canvassing board shall so declare in its canvass of the returns of such election and upon the filing of the certificate of such canvass: The division of the existing district shall be effective; such original district shall cease to exist; the creation of the two new public hospital districts shall be complete; all assets of the original district shall vest in and become the property of the new districts, respectively, pursuant to the plan of division; all the outstanding obligations of the original district shall be assumed by the new districts, respectively, pursuant to such plan; the commissioners of the original district shall cease to hold office; and the affairs of the new districts shall be governed by the newly elected commissioners of such respective new districts. Unless commenced within thirty days after the date of the filing of the certificate of the canvass of such election, no lawsuit whatever may be maintained challenging in any way the legal existence of the resulting new districts, the validity of the proceedings had for the organization and creation thereof, or the lawfulness of the plan of division. Upon the petition of either or both new districts, the superior court in the county where they are located may take whatever actions are reasonable and necessary to complete or confirm the carrying out of such plan. [1982 c 84 § 8.]

70.44.902 Severability—1982 c 84. 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. [1982 c 84 § 21.]

70.44.903 Savings—1982 c 84. All debts, contracts, and obligations made or incurred prior to June 10, 1982, by or in favor of any public hospital district, and all bonds, warrants, or other obligations issued by such district, and all other actions and proceedings relating thereto done or taken by such public hospital districts or by their respective officers within their

authority are hereby declared to be legal and valid and of full force and effect from the date thereof. [1982 c 84 § 11.]

Chapter 70.48
CITY AND COUNTY JAILS ACT

Sections	
70.48.050	Commission—Powers and duties.
70.48.060	Capital construction—Financial assistance— Rules—Oversight—Cost estimates.
70.48.350	Review and modification of jail standards—Legisla- tive finding. (Expires June 30, 1984.)
70.48.355	Review and modification of jail standards—Duty of commission. (Expires June 30, 1984.)
70.48.360	Review and modification of jail standards—Report to legislature. (Expires June 30, 1984.)

70.48.050 Commission—Powers and duties. In addition to any other powers and duties contained in this chapter, the commission shall have the powers and duties:

(1) To adopt such rules and regulations, after approval by the legislature, pursuant to chapter 34.04 RCW, as it deems necessary and consistent with the purposes and intent of this chapter on the following subjects:

(a) Mandatory custodial care standards that are essential for the health, welfare, and security of persons confined in jails. In adopting each rule or regulation pertaining to mandatory custodial care standards, the commission shall cite the applicable case law, statutory law or constitutional provision which requires such rule or regulation. The commission shall grant variances from custodial care standards to governing units which operate jails with physical deficiencies which directly affect their ability to comply with these standards, if the governing unit is eligible for and has applied for funds under RCW 70.48.110. The variances remain in effect until state funding to improve or reconstruct the jails of these governing units has been expended for that purpose;

(b) Advisory custodial care standards;

(c) The classification and uses of holding, detention, and correctional facilities. Except for the housing of work releasees in accordance with commission rules, a person may not be held in a holding facility longer than seventy-two hours, exclusive of weekends and holidays, without being transferred to a detention or correctional facility unless the court having jurisdiction over the individual authorizes a longer holding, but in no instance shall the holding exceed thirty days;

(d) The content of jail records which shall be maintained by the department of corrections or the chief law enforcement officer of the governing unit. In addition to the governing unit, chief law enforcement officer, or department of corrections may require such additional records as they deem proper; and

(e) The segregation of persons and classes of persons confined in holding, detention, and correctional facilities;

(2) To investigate, develop, and encourage alternative and innovative methods in all phases of jail operation;

(3) To make comments, reports, and recommendations concerning all phases of jail operation including those not specifically described in this chapter;

(4) To hire necessary staff, acquire office space, supplies, and equipment, and make such other expenditures as may be deemed necessary to carry out its duties;

(5) The secretary shall submit minimum physical plant standards to the commission for review and promulgate proposed standards pursuant to chapter 34.04 RCW. After such promulgation, the standards shall be presented for review at a public conference of city, town, and county legislative and executive officials and directors of departments of correction or the chief law enforcement officers of the governing units in four regional meetings, two of which shall be east of the Cascade range. Subsequent to these reviews, and utilizing the data received, the commission shall adopt minimum physical plant standards pursuant to chapter 34.04 RCW, after approval by the legislature. The commission may preempt any provisions of the state building code under chapter 19.27 RCW and any local ordinances that apply to jails or a particular jail if the provisions relate to the installation or use of sprinklers in the cells and the commission finds that compliance with the provisions would conflict with the secure and humane operation of jails or the particular jail;

(6) To cause all jails to be inspected at least annually by designated jail inspectors and to issue a certificate of compliance to each facility which is found to satisfactorily meet the requirements of this chapter and the rules, regulations, and standards adopted hereunder: *Provided*, That certificates of partial compliance may be issued where applicable. The inspectors shall have access to all portions of jails, to all prisoners confined therein, and to all records maintained by said jails; and

(7) To establish advisory guidelines and model ordinances to assist governing units in establishing the agreements necessary for the joint operation of jails and for the determination of the rates of allowance for the daily costs of holding a prisoner pursuant to the provisions of RCW 70.48.080(6). [1981 2nd ex.s. c 12 § 4; 1981 c 276 § 1; 1979 ex.s. c 232 § 13; 1977 ex.s. c 316 § 5.]

Severability—1977 ex.s. c 316: See note following RCW 70.48.010.

70.48.060 Capital construction—Financial assistance—Rules—Oversight—Cost estimates. (1) Any funds allocated to a governing unit for jail construction or renovation pursuant to this chapter shall constitute full funding of the cost of implementing the physical plant standards within the meaning of RCW 70.48.070(2). Jail construction or renovation represents the full extent of the state's financial commitment with regard to jails. Local governing units are responsible for funding all costs of operating jails.

(2) As a condition of eligibility for such financial assistance as may be provided by or through the state of Washington exclusively for the construction and/or modernization of jails, all jail construction and/or substantial remodeling projects shall be submitted by the

governing unit to the commission which shall review all submitted projects in accordance with rules to be adopted by the commission and shall approve or reject each project for purposes of state funding. The commission shall allocate available funding to the projects approved for funding in accordance with moneys actually available and the priorities established by the commission under this section.

(3) The rules to be adopted by the commission for purposes of approving or denying requests for state funds for jail construction or remodeling shall:

(i) Limit state funding to the minimum amount required to fully implement the physical plant standards;

(ii) Encourage the voluntary consolidation of jail facilities and programs of contiguous governing units where feasible: *Provided*, That such consolidation is approved by all participating governing units: *Provided further*, That the commission may fund the minimum cost of approved remodeling of an existing county jail facility to be operated as a holding facility in the future when that county is a party to a multi-county consolidation agreement which meets the requirements of RCW 70.48.090, the cost of such holding facility remodeling project(s) and of the consolidated correctional facility project does not exceed the established maximum budgets for current detention and/or correctional facility projects of those governing units, and approval of such a revised concept maximizes the beds to be provided while maintaining or reducing the construction costs;

(iii) Insure that each governing unit or consolidation of governing units applying for state funds under this chapter has submitted a plan which demonstrates that pretrial and posttrial alternatives to incarceration are being considered within the governmental unit;

(iv) Establish criteria and procedures for setting priorities among the projects approved for state funding for purposes of allocating state funds actually available; and

(v) Establish procedures for the submission, review, and approval or denial of projects submitted and appeals from adverse determinations, including time periods applicable thereto.

(4) The commission shall review all submitted projects with the office of financial management and the office of financial management shall provide technical assistance to the commission for purposes of insuring the accuracy of statistical information to be used by the commission in determining projects to be funded.

(5) The commission shall oversee approved construction and remodeling to the extent necessary to assure compliance with the standards adopted and approved pursuant to RCW 70.48.050(5).

(6) The commission shall develop estimates of the costs of the capital construction grants for each biennium required under the provisions of this chapter. The estimates shall be submitted to the office of financial management consistent with the provisions of chapter 43.88 RCW and the office of financial management shall review and approve or disapprove within thirty days.

(7) The commission and the office of financial management shall jointly report to the legislature on or before the convening of a regular session as to the projects approved for funding, construction status of such projects, funds expended and encumbered to date, and updated population and incarceration statistics.

(8) The jail commission shall examine, and by December 1, 1980, present to the legislature recommendations relating to detention and correctional services, including the formulation of the role of state and local governing units regarding detention and correctional facilities. [1982 c 87 § 1; 1979 ex.s. c 232 § 9; 1979 c 151 § 170; 1977 ex.s. c 316 § 6.]

Severability—1977 ex.s. c 316: See note following RCW 70.48.010.

70.48.350 Review and modification of jail standards—Legislative finding. (Expires June 30, 1984.)

The legislature finds that:

(1) The United States supreme court has reversed lower court decisions relating to jail and prisons standards, thus permitting state and local authorities more flexibility in planning jail and prison facilities;

(2) Current physical plant standards used by the state jail commission in allocating state funds for local jail construction are inconsistent with supreme court decisions, and will result in increased construction costs, and impose higher staffing costs on local governments;

(3) The major part of the two hundred thirty-six million dollars of bonds presently authorized for jail construction remains to be issued, and it is estimated that the state will exceed its statutory limit for bond issues by 1984;

(4) It is incumbent upon the legislature to eliminate unnecessary bond issues and to reduce costs to the state and local governments. [1981 2nd ex.s. c 12 § 1.]

Expiration of RCW 70.48.350, 70.48.355 and 70.48.360: "Effective June 30, 1984, sections 1 through 3 of this act, the RCW sections under which they are codified, and any amendments thereto, shall expire." [1981 2nd ex.s. c 12 § 6.]

70.48.355 Review and modification of jail standards—Duty of commission. (Expires June 30, 1984.)

The jail commission shall immediately review and modify physical plant, operating, and other standards in accordance with current case law. In accordance with such revised standards or variances, local governments may modify jail designs to reduce space and staffing requirements and construction costs. [1981 2nd ex.s. c 12 § 2.]

Expiration of section: See note following RCW 70.48.350.

70.48.360 Review and modification of jail standards—Report to legislature. (Expires June 30, 1984.)

The state jail commission shall advise the legislature of the changes in standards by or before February 1, 1982. [1981 2nd ex.s. c 12 § 3.]

Expiration of section: See note following RCW 70.48.350.

Chapter 70.62

TRANSIENT ACCOMMODATIONS—
LICENSING—INSPECTIONS

Sections	
70.62.220	License required—Fee—Display.
70.62.230	Inspection fee.

70.62.220 License required—Fee—Display. The person operating a transient accommodation as defined in this chapter shall secure each year an annual operating license and shall pay a fee therefor as established by the department under RCW 43.20A.055. The annual licensure period shall run from January 1st through December 31st of each year. The license fee shall be paid to the department prior to the time the license is issued and such license shall be conspicuously displayed in the lobby or office of the facility for which it is issued. [1982 c 201 § 10; 1971 ex.s. c 239 § 3.]

70.62.230 Inspection fee. In addition to the annual license fee, the person operating a transient accommodation shall pay an annual inspection fee for any inspection made during the course of the year[.] Fees for inspection shall be as established by the department under RCW 43.20A.055. [1982 c 201 § 11; 1971 ex.s. c 239 § 4.]

Chapter 70.74

WASHINGTON STATE EXPLOSIVES ACT

Sections	
70.74.020	Restrictions on manufacture, sale, or storage—Users—Reports on storage—Waiver.

70.74.020 Restrictions on manufacture, sale, or storage—Users—Reports on storage—Waiver. (1) No person shall manufacture, possess, store, sell, purchase, transport, or use explosives or blasting agents except in compliance with this chapter.

(2) The director of the department of labor and industries shall make and promulgate rules and regulations concerning qualifications of users of explosives and shall have the authority to issue licenses for users of explosives to effectuate the purpose of this chapter: *Provided*, That where there is a finding by the director that the use or disposition of explosives in any class of industry presents no unusual hazard to the safety of life or limb of persons employed therewith, and where the users are supervised by a superior in an employment relationship who is sufficiently experienced in the use of explosives, and who possesses a license for such use under this chapter, the director in his discretion may exclude said users in those classes of industry from individual licensing.

(3) The director of the department of labor and industries shall make and promulgate rules and regulations concerning the manufacture, sale, purchase, use, transportation, storage, and disposal of explosives, and shall have the authority to issue licenses for the manufacture, purchase, sale, use, transportation, and storage

of explosives to effectuate the purpose of this chapter. The director of the department of labor and industries is hereby delegated the authority to grant written waiver of this chapter whenever it can be shown that the manufacturing, handling, or storing of explosives are in compliance with applicable national or federal explosive safety standards: *Provided*, That any resident of this state who is qualified to purchase explosives in this state and who has complied with the provisions of this chapter applicable to him may purchase explosives from an authorized dealer of a bordering state and may transport said explosives into this state for use herein: *Provided further*, That residents of this state shall, within ten days of the date of purchase, present to the department of labor and industries a report signed by both vendor and vendee of every purchase from an out of state dealer, said report indicating the date of purchase, name of vendor, vendor's license number, vendor's business address, amount and kind of explosives purchased, the name of the purchaser, the purchaser's license number, and the name of receiver if different than purchaser.

(4) It shall be unlawful to sell, give away or otherwise dispose of, or deliver to any person under twenty-one years of age any explosives including black powder, and blasting caps or other explosive igniters, whether said person is acting for himself or for any other person: *Provided*, That small arms ammunition and handloader components shall not be considered explosives for the purposes of this section: *Provided further*, That if there is a finding by the director that said use or disposition of explosives poses no unusual hazard to the safety of life or limb in any class of industry, where persons eighteen years of age or older are employed as users, and where said persons are adequately trained and adequately supervised by a superior in an employment relationship who is sufficiently experienced in the use of explosives, and who possesses a valid license for such use under this chapter, the director in his discretion may exclude said persons in that class of industry from said minimum age requirement.

(5) All persons engaged in keeping, using, or storing any compound, mixture, or material, in wet condition, or otherwise, which upon drying out or undergoing other physical changes, may become an explosive within the definition of RCW 70.74.010, shall report in writing subscribed to by such person or his agent, to the department of labor and industries, report blanks to be furnished by such department, and such reports to require:

- The kind of compound, mixture, or material kept or stored, and maximum quantity thereof;
- Condition or state of compound, mixture, or material;
- Place where kept or stored.

The department of labor and industries may at any time cause an inspection to be made to determine whether the condition of the compound, mixture, or material is as reported. [1982 c 111 § 1; 1972 ex.s. c 88 § 6; 1969 ex.s. c 137 § 4; 1967 c 99 § 1; 1931 c 111 § 2; RRS § 5440-2.]

Chapter 70.77

STATE FIREWORKS LAW

Sections

70.77.125	Repealed.
70.77.126	Definitions—"Fireworks."
70.77.130	Repealed.
70.77.131	Definitions—"Special fireworks."
70.77.135	Repealed.
70.77.136	Definitions—"Common fireworks."
70.77.140	Repealed.
70.77.141	Definitions—"Agricultural and wildlife fireworks."
70.77.145	Repealed.
70.77.146	Definitions—"Pyrotechnics."
70.77.150	Repealed.
70.77.155	Repealed.
70.77.160	Definitions—"Public display of fireworks."
70.77.170	Definitions—"License."
70.77.180	Definitions—"Permit."
70.77.185	Repealed.
70.77.195	Repealed.
70.77.210	Definitions—"Wholesaler."
70.77.215	Definitions—"Retailer."
70.77.220	Repealed.
70.77.225	Repealed.
70.77.230	Definitions—"Pyrotechnic operator."
70.77.235	Repealed.
70.77.240	Repealed.
70.77.245	Repealed.
70.77.250	State fire marshal to enforce and administer—Powers and duties.
70.77.255	Acts prohibited without a license.
70.77.260	Application for permit.
70.77.275	Repealed.
70.77.285	Public display permit—Bond or insurance for liability.
70.77.295	Public display permit—Amount of bond and insurance.
70.77.300	Repealed.
70.77.305	Fire marshal to issue licenses.
70.77.310	Repealed.
70.77.311	Exemptions from licensing—Sales to religious organizations for ceremonial uses—Sales for specific uses—Sales and use of certain agricultural and wildlife fireworks.
70.77.315	Application for license.
70.77.325	Annual application for a license.
70.77.330	License to engage in particular act to be issued if not contrary to public safety or welfare—Transportation of fireworks authorized.
70.77.335	License authorizes activities of salesmen, employees.
70.77.340	Annual license fees.
70.77.345	Duration of licenses.
70.77.350	Repealed.
70.77.355	General license for public display—Surety bond or insurance—Filing with legislative body.
70.77.360	Denial of license if contrary to public safety or welfare.
70.77.365	Denial of license for failure to meet qualifications or conditions.
70.77.370	Hearing on denial of license.
70.77.375	Mandatory revocation of license.
70.77.380	Repealed.
70.77.385	Repealed.
70.77.390	Repealed.
70.77.395	Dates common fireworks may be sold or discharged.
70.77.400	Repealed.
70.77.405	Authorized sales of toy caps, tricks, and novelties.
70.77.415	Supervision of public displays.
70.77.420	Storage permit required.
70.77.425	Approved storage facilities required.
70.77.430	Sale of stock after revocation or expiration of license.
70.77.435	Seizure of fireworks.
70.77.445	Repealed.
70.77.455	Licenses to maintain and make available to state fire marshal complete records.

70.77.470	Repealed.
70.77.475	Repealed.
70.77.480	Prohibited transfers of fireworks.
70.77.490	Repealed.
70.77.500	Repealed.
70.77.505	Repealed.
70.77.510	Sales or transfers of special fireworks.
70.77.515	Sales or transfers of common fireworks.
70.77.525	Manufacture or sale of fireworks for out-of-state shipment.
70.77.535	Pyrotechnics for entertainment media.
70.77.555	Local permit fee—Limit.
70.77.560	Repealed.
70.77.570	Certain rockets not to be sold as common fireworks.
70.77.911	Severability—1982 c 230.

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

70.77.126 Definitions—"Fireworks." "Fireworks" means any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks by the United States bureau of explosives or contained in the regulations of the United States department of transportation. [1982 c 230 § 1.]

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

70.77.131 Definitions—"Special fireworks." "Special fireworks" includes any fireworks designed primarily for exhibition display which produce visible or audible effects by combustion, deflagration, or detonation. [1982 c 230 § 2.]

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

70.77.136 Definitions—"Common fireworks." "Common fireworks" includes any fireworks which are designed primarily for sale at retail to the public during prescribed dates and which produce visible or audible effects through combustion. [1982 c 230 § 3.]

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

70.77.141 Definitions—"Agricultural and wildlife fireworks." "Agricultural and wildlife fireworks" includes fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States department of the interior. [1982 c 230 § 4.]

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

70.77.146 Definitions—"Pyrotechnics." "Pyrotechnics" means any combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere, and designed and intended to produce an audible, visual, mechanical,

or thermal effect as a necessary part of a motion picture, radio or television production, theatrical, or opera. [1982 c 230 § 5.]

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

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

70.77.160 Definitions—"Public display of fireworks." "Public display of fireworks" means an entertainment feature where the public is admitted or permitted to view the display or discharge of special fireworks. [1982 c 230 § 6; 1961 c 228 § 9.]

70.77.170 Definitions—"License." "License" means a nontransferable formal authorization which the state fire marshal is permitted to issue under this chapter to engage in the act specifically designated therein. [1982 c 230 § 7; 1961 c 228 § 11.]

70.77.180 Definitions—"Permit." "Permit" means the official permission granted by the local public agency for the purpose of establishing and maintaining a place where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged, discharged or used. [1982 c 230 § 8; 1961 c 228 § 13.]

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

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

70.77.210 Definitions—"Wholesaler." "Wholesaler" includes any person who sells fireworks to a retailer or any other person for resale and any person who sells special fireworks to public display licensees. [1982 c 230 § 9; 1961 c 228 § 19.]

70.77.215 Definitions—"Retailer." "Retailer" includes any person who, at a fixed location or place of business, sells, transfers, or gives common fireworks to a consumer or user. [1982 c 230 § 10; 1961 c 228 § 20.]

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

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

70.77.230 Definitions—"Pyrotechnic operator." "Pyrotechnic operator" includes any individual who by experience and training has demonstrated the required skill and ability for safely setting up and discharging public displays of special fireworks. [1982 c 230 § 11; 1961 c 228 § 23.]

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

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

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

70.77.250 State fire marshal to enforce and administer—Powers and duties. The state fire marshal shall enforce and administer this chapter and shall have the following powers and duties:

(1) He shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter;

(2) He may prescribe such rules and regulations relating to fireworks as may be necessary for the protection of life and property, and shall adopt reasonable rules and regulations not inconsistent with the provisions of this chapter, for the granting of licenses for, and the presentation of, public displays of fireworks;

(3) He is vested with the necessary police powers to enforce the criminal provisions of this chapter. [1982 c 230 § 12; 1961 c 228 § 27.]

70.77.255 Acts prohibited without a license. No person, without securing a license, shall do any of the following:

(1) Manufacture, import, possess, or sell any fireworks at wholesale or retail for any use;

(2) Discharge special fireworks at any place;

(3) Make a public display of fireworks; or

(4) Transport fireworks, except as a public carrier delivering to a licensee. [1982 c 230 § 14; 1961 c 228 § 28.]

70.77.260 Application for permit. Any adult person or other group desiring to do any act mentioned in RCW 70.77.255 shall also make written application for a permit to the chief of the fire department or the chief fire prevention officer of the city or county, or to such other person as may be designated by the governing body of the city or county. Applications for permits for public display of fireworks shall be made in writing at least ten days in advance of the proposed display. [1982 c 230 § 15; 1961 c 228 § 29.]

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

70.77.285 Public display permit—Bond or insurance for liability. The applicant for a permit for a public display of fireworks shall at the time of application file with the officer to whom the application is made, a bond issued by an authorized surety company to be approved by such officer, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant, or his or its agents, servants, employees, or subcontractors in the presentation thereof, or a certificate of insurance evidencing the carrying of appropriate public liability insurance for the benefit of the person named therein as assured, as evidence of ability to respond in

damages in at least such amount, said policies to be similarly approved. [1982 c 230 § 16; 1961 c 228 § 34.]

Amount of bond or insurance: RCW 70.77.295.

70.77.295 Public display permit—Amount of bond and insurance. In the case of an application for a permit for the public display of fireworks, the amount of such a surety bond or certificate of insurance shall be not less than fifty thousand dollars and one million dollars for bodily injury liability for each person and event, respectively, and not less than twenty-five thousand dollars for property damage liability for each event. [1982 c 230 § 17; 1961 c 228 § 36.]

Bond or insurance required: RCW 70.77.285.

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

70.77.305 Fire marshal to issue licenses. The state fire marshal has the power to issue licenses for the manufacture, importation, sale, and use of all fireworks in this state. [1982 c 230 § 18; 1961 c 228 § 38.]

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

70.77.311 Exemptions from licensing—Sales to religious organizations for ceremonial uses—Sales for specific uses—Sales and use of certain agricultural and wildlife fireworks. No license is required for the sale of common fireworks to religious organizations for ceremonial uses or to private organizations or persons for specific uses, when approved by the local fire official, or for the sale and use of agricultural and wildlife fireworks if the agricultural and wildlife fireworks are distributed to farmers, ranchers, or growers through a wildlife management program administered by the United States department of the interior and if the distribution is in response to a written application describing the wildlife management problem that requires use of the devices, it is of no greater quantity than necessary to control the described problem, and it is limited to situations where other means of control are unavailable or inadequate. [1982 c 230 § 19.]

70.77.315 Application for license. Any person who desires to engage in the manufacture, importation, sale, or use of fireworks shall make a written application to the state fire marshal on forms provided by him. Such application shall be accompanied by the annual license fee as prescribed in this chapter. [1982 c 230 § 20; 1961 c 228 § 40.]

70.77.325 Annual application for a license. Application for a license shall be made annually by every person holding an existing license and accompanied by the annual license fee as prescribed in this chapter. [1982 c 230 § 21; 1961 c 228 § 42.]

70.77.330 License to engage in particular act to be issued if not contrary to public safety or welfare—

Transportation of fireworks authorized. If the state fire marshal finds that the granting of such license would not be contrary to public safety or welfare, he shall issue a license authorizing the applicant to engage in the particular act or acts upon the payment of the license fee specified in this chapter. Licensees may transport the class of fireworks for which they hold a valid license. [1982 c 230 § 22; 1961 c 228 § 43.]

70.77.335 License authorizes activities of salesmen, employees. The authorization to engage in the particular act or acts conferred by a license to a person shall extend to salesmen and other employees of such person. [1982 c 230 § 23; 1961 c 228 § 44.]

70.77.340 Annual license fees. The original and annual license fee shall be as follows:

Manufacturer	\$ 500.00
Importer	100.00
Wholesaler	1,000.00
Retailer (for each separate retail outlet)	10.00
Public display for special fireworks ..	10.00
Pyrotechnic operator for special fireworks	5.00

[1982 c 230 § 24; 1961 c 228 § 45.]

70.77.345 Duration of licenses. The license fee shall be for the calendar year from January 1st to December 31st or for the remaining portion thereof. [1982 c 230 § 25; 1961 c 228 § 46.]

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

70.77.355 General license for public display—Surety bond or insurance—Filing with legislative body. (1) Notwithstanding any of the other provisions of this chapter relating to public liability insurance and bonds, any adult individual, concern, firm, corporation, or co-partnership may secure a general license for the public display of fireworks within the state of Washington subject to the provisions of this chapter relative to the securing of local permits for the public display of fireworks in any city or county, except that in lieu of filing the bonds or certificate of public liability insurance as required in RCW 70.77.285 and 70.77.295, a surety bond similarly conditioned or a certificate evidencing public liability insurance in a like amount shall be filed with the state fire marshal. The bond or certificate of insurance shall provide that: (a) The insurer will not cancel the insured's coverage without fifteen days prior written notice to the state fire marshal; (b) the duly licensed pyrotechnic operator required by law to supervise and discharge the public display, acting either as an employee of the insured or as an independent contractor and the state of Washington, its officers, agents, employees, and servants are included as additional insureds, but only insofar as any operations under contract are concerned; and (c) the state is not responsible for any premium or assessments on the policy.

(2) The state fire marshal shall have the authority to issue such licenses, subject to such reasonable rules and regulations which he may adopt, not inconsistent with the provisions of this chapter. A certificate evidencing such general license, when so obtained, shall be filed with the legislative body or officer granting a permit for the public display of fireworks prior to the issuance thereof. [1982 c 230 § 26; 1961 c 228 § 48.]

70.77.360 Denial of license if contrary to public safety or welfare. If the state fire marshal finds that the granting of a license would be contrary to the public safety or welfare, he may deny the application for a license. [1982 c 230 § 27; 1961 c 228 § 49.]

70.77.365 Denial of license for failure to meet qualifications or conditions. A written report of the state fire marshal, any of his deputies or salaried assistants, or the chief of any city or county fire department or fire protection district, or their authorized representatives, disclosing that the applicant for a license, or the premises for which a license is to apply, do not meet the qualifications or conditions for a license shall constitute grounds for the denial of any application for a license. [1982 c 230 § 28; 1961 c 228 § 50.]

70.77.370 Hearing on denial of license. Any applicant who has been denied a license is entitled to a hearing in accordance with the provisions of chapter 48.04 RCW. [1982 c 230 § 29; 1961 c 228 § 51.]

70.77.375 Mandatory revocation of license. The state fire marshal, upon reasonable opportunity to be heard, shall revoke any license issued pursuant to this chapter, if he finds that:

(1) The licensee has violated any provisions of this chapter or any rule or regulations made by the state fire marshal under and with the authority of this chapter;

(2) The licensee has created or caused a fire nuisance;

(3) Any licensee has failed or refused to file any required reports; or

(4) Any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the state fire marshal in refusing originally to issue such license. [1982 c 230 § 30; 1961 c 228 § 52.]

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

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

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

70.77.395 Dates common fireworks may be sold or discharged. No common fireworks shall be sold or discharged within this state except from twelve o'clock noon on the twenty-eighth of June to twelve o'clock noon on the sixth of July of each year. [1982 c 230 § 31; 1961 c 228 § 56.]

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

70.77.405 Authorized sales of toy caps, tricks, and novelties. Toy paper caps containing not more than twenty-five hundredths grain of explosive compound for each cap and trick or novelty devices not classified as common fireworks may be sold at all times unless prohibited by local ordinance. [1982 c 230 § 32; 1961 c 228 § 58.]

70.77.415 Supervision of public displays. Every public display of fireworks shall be handled or supervised by a licensed pyrotechnic operator. [1982 c 230 § 33; 1961 c 228 § 60.]

70.77.420 Storage permit required. It shall be unlawful for any person to store fireworks of any class without first having made a written application for and received a permit for such storage to the chief of the fire department or to the chief fire prevention officer of the city or county in which the storage is to be made at least ten days prior to the date of the proposed storage. It shall be the duty of the officer to whom the application for a storage permit is made to make an investigation as to whether such storage as proposed will be of such a nature and character and will be so located as to constitute a hazard to property or be dangerous to any person, and he shall in the exercise of reasonable discretion grant or deny the application, subject to such reasonable conditions, if any, as he may prescribe. [1982 c 230 § 34; 1961 c 228 § 61.]

70.77.425 Approved storage facilities required. It shall be unlawful for any person to store unsold stocks of fireworks remaining unsold after the lawful period of sale as provided in his permit except in such places of storage as the local officer issuing the permit shall approve. Unsold stocks of fireworks remaining after the authorized retail sales period from twelve o'clock noon on June 28th to twelve o'clock noon on July 6th shall be returned on or before July 31st of the same year to the approved storage facilities of a licensed fireworks wholesaler, to a magazine or storage place approved by the chief of any city or county fire department or fire protection district. [1982 c 230 § 35; 1961 c 228 § 62.]

70.77.430 Sale of stock after revocation or expiration of license. Following the revocation or expiration of his license, any person in lawful possession of a lawfully acquired stock of fireworks may sell such fireworks only under supervision of the state fire marshal and in such a manner as he shall by rule provide and solely to persons who are authorized to buy, possess, sell, or use such fireworks. [1982 c 230 § 36; 1961 c 228 § 63.]

70.77.435 Seizure of fireworks. Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter or the rules or regulations of the state fire marshal shall be subject to seizure by the state fire marshal or any deputy state fire marshal. Any fireworks seized

under this section may be disposed of by the state fire marshal by summary destruction at any time subsequent to thirty days from such seizure or ten days from the final termination of proceedings under the provisions of RCW 70.77.440, whichever is later. [1982 c 230 § 37; 1961 c 228 § 64.]

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

70.77.455 Licensees to maintain and make available to state fire marshal complete records. All licensees shall maintain and make available to the state fire marshal full and complete records showing all production, imports, exports, purchases, sales, and consumption of fireworks items by kind and class. [1982 c 230 § 38; 1961 c 228 § 68.]

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

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

70.77.480 Prohibited transfers of fireworks. The transfer of fireworks ownership whether by sale at wholesale or retail, by gift or other means of conveyance of title, or by delivery of any fireworks to any person in the state who does not possess and present to the carrier for inspection at the time of delivery a valid license, where such license is required to purchase, possess, transport, or use fireworks, is prohibited. [1982 c 230 § 39; 1961 c 228 § 73.]

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

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

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

70.77.510 Sales or transfers of special fireworks. No person shall sell or transfer any special fireworks to any person who is not a fireworks licensee as provided for by this chapter. [1982 c 230 § 40; 1961 c 228 § 79.]

70.77.515 Sales or transfers of common fireworks. No person shall sell or transfer any common fireworks to a consumer or user thereof other than at a fixed place of business of a retailer for which a license and permit have been issued. [1982 c 230 § 41; 1961 c 228 § 80.]

70.77.525 Manufacture or sale of fireworks for out-of-state shipment. This chapter does not prohibit any manufacturer, wholesaler, dealer, or jobber, having a license and a permit secured under the provisions of this chapter, from manufacturing or selling any kind of fireworks for direct shipment out of this state. [1982 c 230 § 42; 1961 c 228 § 82.]

70.77.535 Pyrotechnics for entertainment media. This chapter does not prohibit the assembling, compounding, use, and display of pyrotechnics of whatever nature by any person engaged in the production of motion pictures, radio or television productions, theatricals, or operas when such use and display is a necessary part of the production and such person possesses a valid permit from the local fire authority. [1982 c 230 § 43; 1961 c 228 § 84.]

70.77.555 Local permit fee—Limit. A local public agency may provide by ordinance for a permit fee in an amount sufficient to cover legitimate administrative costs for permit processing and inspection, but in no case to exceed one hundred dollars for any one year. [1982 c 230 § 44; 1961 c 228 § 88.]

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

70.77.570 Certain rockets not to be sold as common fireworks. No fireworks may be sold or offered for sale to the public as common fireworks which are classified as sky rockets or missile-type rockets as defined by the United States department of transportation and the federal consumer products safety commission unless the state fire marshal has approved the type of firework so classified. [1982 c 230 § 13.]

70.77.911 Severability—1982 c 230. 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. [1982 c 230 § 45.]

Chapter 70.95

SOLID WASTE MANAGEMENT—RECOVERY AND RECYCLING

Sections

70.95.040 Solid waste advisory committee—Created—Membership—Chairman—Meetings—Travel expenses.

70.95.040 Solid waste advisory committee—Created—Membership—Chairman—Meetings—Travel expenses. There is created a solid waste advisory committee to provide consultation to the department of ecology concerning matters covered by this chapter. The committee shall advise on the development of programs and regulations for solid and dangerous waste handling, resource recovery, and recycling, and shall supply recommendations concerning methods by which existing solid and dangerous waste handling, resource recovery, and recycling practices and the laws authorizing them may be supplemented and improved.

The committee shall consist of eleven members, including the assistant director for the division of solid waste management within the department. The director

shall appoint ten members with due regard to the interests of the public, local government, agriculture, industry, public health, and the refuse removal and resource recovery industries. The director shall include among his ten appointees representatives of activities from which dangerous wastes arise and the Washington state patrol's hazardous materials technical advisory committee. The term of appointment shall be determined by the director. The committee shall elect its own chairman and meet at least four times a year, in accordance with such rules of procedure as it shall establish. Members shall receive no compensation for their services but shall be reimbursed their travel expenses while engaged in business of the committee in accordance with RCW 43.03-.050 and 43.03.060 as now existing or hereafter amended. [1982 c 108 § 1; 1977 c 10 § 1. Prior: 1975-'76 2nd ex.s. c 41 § 9; 1975-'76 2nd ex.s. c 34 § 160; 1969 ex.s. c 134 § 4.]

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

Chapter 70.96
ALCOHOLISM

Sections

70.96.021 Definitions.
70.96.160 County alcoholism administrative board—Members, qualifications, terms—Powers, duties.
70.96.170 County alcoholism coordinator.
70.96.180 County alcoholism program—State support, requirements.
70.96.190 County alcoholism program—State support, use.
70.96.200 Rules.

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

- (1) "Alcoholism program" means expenditures and activities designed and conducted to prevent or treat alcoholism, including reasonable administration and overhead.
(2) "Department" means the department of social and health services.
(3) "Secretary" means the secretary of social and health services. [1982 c 193 § 2.]

70.96.160 County alcoholism administrative board—Members, qualifications, terms—Powers, duties. (1) Any county or combination of counties acting jointly by agreement, hereinafter referred to as "county", may create an alcoholism administrative board. The alcoholism administrative board may also be designated as a board for other related programs.

(2) Such board shall be composed of not less than seven nor more than fifteen members, who shall be representative of the community, shall include at least two recovered alcoholics, and shall include consumer and minority group representation. No more than four elected or appointed city or county officials may serve on such board at the same time. Members of the board shall serve three year terms and until their successors

are appointed and qualified. They shall not be compensated for the performance of their duties as members of the board, but may be reimbursed for travel expenses.

- (3) The alcoholism administrative board shall:
(a) Nominate individuals to the county legislative authority for the position of county alcoholism coordinator;
(b) Conduct public hearings and other investigations to determine the needs and priorities of county citizens;
(c) Review and recommend to the county legislative authority for approval plans, budgets, and applications by the county to the department;
(d) Evaluate the performance of the alcoholism program at least annually;
(e) Advise the county legislative authority and county coordinator on matters relating to the alcoholism program;
(f) Such other duties as the department may prescribe by rule. [1982 c 193 § 1; 1973 1st ex.s. c 155 § 2.]

Drug abuse board may be designated for other programs: RCW 69.54.120.

Travel expenses, employees of political subdivisions: RCW 42.24.090.

70.96.170 County alcoholism coordinator. (1) The chief executive officer of the county alcoholism program shall be the county alcoholism coordinator. The coordinator shall:

- (a) Provide general supervision over the alcoholism program;
(b) Prepare plans and applications for funds to support the alcoholism program;
(c) Monitor the delivery of services to assure conformance with plans and contracts; and
(d) Provide staff support to the county alcoholism administrative board.

(2) The county alcoholism coordinator shall be appointed by the county legislative authority from nominations by the alcoholism administrative board. The nominees shall meet the minimum qualifications established by rule of the department. Nominees need not be a resident of the county, city, or state. The coordinator may serve on either a full-time or part-time basis. The coordinator may be an employee of a private agency under contract to provide alcoholism services only with the prior approval of the secretary. [1982 c 193 § 3.]

70.96.180 County alcoholism program—State support, requirements. (1) A county legislative authority, or two or more counties acting jointly, may establish an alcoholism program. If two or more counties jointly establish an alcoholism program, one county shall be designated to provide administrative and financial services.

(2) To be eligible for funds from the department for the support of the county alcoholism program, the county legislative authority must establish a county alcoholism administrative board and appoint a county alcoholism coordinator.

(3) The county legislative authority may apply to the department for financial support for the county alcoholism program. To receive such financial support, the

county legislative authority shall submit a plan which meets the following conditions:

(a) It shall describe the services and activities to be provided;

(b) It shall include anticipated expenditures and revenues;

(c) It shall be reviewed by the county alcoholism administrative board and adopted by the county legislative authority;

(d) It shall reflect maximum effective use of existing services and facilities; and

(e) Such other conditions as the secretary may require.

(4) The county is authorized to accept and expend gifts, grants, and fees, from public and private sources, to implement its alcoholism program. [1982 c 193 § 4.]

70.96.190 County alcoholism program—State support, use. To continue to be eligible for financial support from the department for the county alcoholism program, any increase in state financial support shall not be used to supplant local funds from any source which was used to support the county alcoholism program prior to the effective date of the increase. [1982 c 193 § 6.]

70.96.200 Rules. The secretary may adopt rules pursuant to chapter 34.04 RCW to carry out the provisions and purposes of this chapter and chapter 70.96A RCW. [1982 c 193 § 5.]

Chapter 70.106

**HAZARDOUS SUBSTANCES AND ARTICLES
(WASHINGTON POISON PREVENTION ACT OF
1974)**

Sections

70.106.130 Repealed.

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

Chapter 70.119

**PUBLIC WATER SUPPLY SYSTEMS—
CERTIFICATION AND REGULATION OF
OPERATORS**

Sections

70.119.100 Certificates—Issuance and renewal—Conditions.

70.119.100 Certificates—Issuance and renewal—Conditions. The issuance and renewal of a certificate shall be subject to the following conditions:

(1) Except as provided in RCW 70.119.090, a certificate shall be issued if the operator has satisfactorily passed a written examination, has paid the department an application fee as established by the department under RCW 43.20A.055, and has met the requirements

specified in the rules and regulations as authorized by this chapter.

(2) The terms for all certificates shall be for one year from the date of issuance. Every certificate shall be renewed annually upon the payment of a fee as established by the department under RCW 43.20A.055 and satisfactory evidence presented to the secretary that the operator demonstrates continued professional growth in the field.

(3) The secretary shall notify operators who fail to renew their certificates before the end of the certificate year that their certificates are temporarily valid for two months following the end of the certificate year. Certificates not renewed during the two month period shall be invalid and the secretary shall so notify the holders of such certificates.

(4) An operator who has failed to renew a certificate pursuant to the provisions of this section, may reapply for certification and the secretary may require the operator to meet the requirements established for new applicants. [1982 c 201 § 13; 1977 ex.s. c 99 § 10.]

Chapter 70.121

**MILL TAILINGS—LICENSING AND
PERPETUAL CARE**

Sections

70.121.020 Definitions.

70.121.020 Definitions. Unless the context clearly requires a different meaning, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of social and health services.

(3) "Site" means the restricted area as defined by the United States nuclear regulatory commission.

(4) "Tailings" means the residue remaining after extraction of uranium or thorium from the ore whether or not the residue is left in piles, but shall not include ore bodies nor ore stock piles.

(5) "License" means a radioactive materials license issued under chapter 70.98 RCW and the rules adopted under chapter 70.98 RCW.

(6) "Termination of license" means the cancellation of the license after permanent cessation of operations. Temporary interruptions or suspensions of production due to economic or other conditions are not a permanent cessation of operations.

(7) "Milling" means grinding, cutting, working, or concentrating ore which has been extracted from the earth by mechanical (conventional) or chemical (in situ) processes. [1982 c 78 § 1; 1979 ex.s. c 110 § 2.]

Effective date—1979 ex.s. c 110: See note following RCW 70.121.010.

Chapter 70.132
BEVERAGE CONTAINERS
 (Effective July 1, 1983)

Sections

70.132.010	Legislative findings.
70.132.020	Definitions.
70.132.030	Sale of containers with detachable metal rings or tabs prohibited.
70.132.040	Enforcement—Rules.
70.132.050	Penalty.
70.132.900	Effective date—Implementation—1982 c 113.

70.132.010 Legislative findings. The legislature finds that beverage containers designed to be opened through the use of detachable metal rings or tabs are hazardous to the health and welfare of the citizens of this state and detrimental to certain wildlife. The detachable parts are susceptible to ingestion by human beings and wildlife. The legislature intends to eliminate the danger posed by these unnecessary containers by prohibiting their retail sale in this state. [1982 c 113 § 1.]

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

(1) "Beverage" means beer or other malt beverage or mineral water, soda water, or other drink in liquid form and intended for human consumption.

(2) "Beverage container" means a separate and sealed can containing a beverage.

(3) "Department" means the department of ecology created under chapter 43.21A RCW. [1982 c 113 § 2.]

70.132.030 Sale of containers with detachable metal rings or tabs prohibited. No person may sell or offer to sell at retail in this state any beverage container so designed and constructed that a metal part of the container is detachable in opening the container through use of a metal ring or tab. Nothing in this section prohibits the sale of a beverage container which container's only detachable part is a piece of pressure sensitive or metallic tape. [1982 c 113 § 3.]

70.132.040 Enforcement—Rules. The department shall administer and enforce this chapter. The department shall adopt rules interpreting and implementing this chapter. Any rule adopted under this section shall be adopted under the administrative procedure act, chapter 34.04 RCW. [1982 c 113 § 4.]

70.132.050 Penalty. Any person who violates any provision of this chapter or any rule adopted under this chapter is subject to a civil penalty not exceeding five hundred dollars for each violation. Each day of a continuing violation is a separate violation. [1982 c 113 § 5.]

70.132.900 Effective date—Implementation—1982 c 113. This act shall take effect on July 1, 1983. The director of the department of ecology is authorized to take such steps prior to such date as are necessary to

ensure that this act is implemented on its effective date. [1982 c 113 § 7.]

Chapter 70.136
HAZARDOUS MATERIALS INCIDENTS

Sections

70.136.010	Legislative intent.
70.136.020	Definitions.
70.136.030	Incident command agencies—Designation by political subdivisions—State patrol to act if other entity not designated.
70.136.040	Incident command agencies—Emergency assistance agreements.
70.136.050	Person rendering emergency aid in hazardous materials incident—Immunity from liability—Limitations.
70.136.060	Written emergency assistance agreements—Terms and conditions—Records.
70.136.070	Verbal emergency assistance agreements—Notification—Form.

Department of emergency services: Chapter 38.52 RCW.

Hazardous waste disposal: Chapter 70.105 RCW.

Transport of hazardous materials, state patrol authority over: Chapter 46.48 RCW.

70.136.010 Legislative intent. It is the intent of the legislature to promote and encourage advance planning, cooperation, and mutual assistance between applicable political subdivisions of the state and persons with equipment, personnel, and expertise in the handling of hazardous materials incidents, by establishing limitations on liability for those persons responding in accordance with the provisions of RCW 70.136.020 through 70.136.070. [1982 c 172 § 1.]

Reviser's note: Although 1982 c 172 directed that sections 1 through 7 of that enactment be added to chapter 4.24 RCW, codification of these sections as a new chapter in Title 70 RCW appears more appropriate.

70.136.020 Definitions. The definitions set forth in this section apply throughout RCW 70.136.010 through 70.136.070.

(1) "Hazardous materials" means:

(a) Materials which, if not contained may cause unacceptable risks to human life within a specified area adjacent to the spill, seepage, fire, explosion, or other release, and will, consequently, require evacuation;

(b) Materials that, if spilled, could cause unusual risks to the general public and to emergency response personnel responding at the scene;

(c) Materials that, if involved in a fire will pose unusual risks to emergency response personnel;

(d) Materials requiring unusual storage or transportation conditions to assure safe containment; or

(e) Materials requiring unusual treatment, packaging, or vehicles during transportation to assure safe containment.

(2) "Applicable political subdivisions of the state" means cities, towns, counties, fire districts, and those port authorities with emergency response capabilities.

(3) "Person" means an individual, partnership, corporation, or association.

(4) "Hazardous materials incident" means an incident creating a danger to persons, property, or the environment as a result of spillage, seepage, fire, explosion, or release of hazardous materials, or the possibility thereof.

(5) "Governing body" means the elected legislative council, board, or commission or the chief executive of the applicable political subdivision of the state with public safety responsibility.

(6) "Incident commander" means the commanding officer at the incident scene who is representing the designated hazardous materials incident command agency.

(7) "Representative" means an agent of the incident commander from the designated hazardous materials incident command agency with the authority to secure the services of persons with hazardous materials expertise or equipment.

(8) "Profit" means compensation for rendering care, assistance, or advice in excess of expenses actually incurred. [1982 c 172 § 2.]

70.136.030 Incident command agencies—Designation by political subdivisions—State patrol to act if other entity not designated. The governing body of each applicable political subdivision of this state shall designate a hazardous materials incident command agency within its respective boundaries, and file this with the director of the state department of emergency services or its successor agency. In designating an incident command agency, the political subdivision shall consider the training, manpower, expertise, and equipment of various available agencies as well as the Uniform Fire Code and other existing codes and regulations. Along state and interstate highway corridors, the Washington state patrol shall be the designated incident command agency unless by mutual agreement that role has been assumed by another designated incident command agency. If a political subdivision has not designated an incident command agency within six months after April 1, 1982, the chief of the Washington state patrol shall be so notified by that political subdivision. The Washington state patrol shall then assume the role of incident command agency until a designation is made. [1982 c 172 § 4.]

70.136.040 Incident command agencies—Emergency assistance agreements. Hazardous materials incident command agencies, so designated by all applicable political subdivisions of the state, are authorized and encouraged, prior to a hazardous materials incident, to enter individually or jointly into written hazardous materials emergency assistance agreements with any person whose knowledge or expertise is deemed potentially useful. [1982 c 172 § 3.]

70.136.050 Person rendering emergency aid in hazardous materials incident—Immunity from liability—Limitations. Any person who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than

acts or omissions constituting gross negligence or wilful or wanton misconduct, if:

(1) The political subdivision has designated a hazardous materials incident command agency as required in RCW 70.136.030; and

(2) The designated incident command agency and the person whose assistance is requested have entered into a written hazardous materials assistance agreement prior to the incident which incorporates the terms and conditions of RCW 70.136.060, except as specified in RCW 70.136.070;

(3) The request for assistance comes from the designated incident command agency. [1982 c 172 § 5.]

70.136.060 Written emergency assistance agreements—Terms and conditions—Records. Hazardous materials emergency assistance agreements which are executed prior to a hazardous materials incident shall include the following terms and conditions:

(1) The person requested to assist shall not be obligated to assist;

(2) The person requested to assist may act only under the direction of the incident commander or his representative;

(3) The person requested to assist may withdraw his assistance if he deems the actions or directions of the incident commander to be contrary to accepted hazardous materials response practices;

(4) The person requested to assist shall not profit from rendering the assistance;

(5) The person requested to assist shall not be a public employee acting in his official capacity within the boundaries of his political subdivision;

(6) Any person responsible for causing the hazardous materials incident shall not be covered by the liability standard defined in RCW 70.136.050.

It is the responsibility of both parties to ensure that mutually agreeable procedures are established for identifying the designated incident command agency when assistance is requested, for recording the name of the person whose assistance is requested, and the time and date of the request, which records shall be retained for three years by the designated incident command agency. A copy of the official incident command agency designation shall be a part of the assistance agreement specified in this section. [1982 c 172 § 6.]

70.136.070 Verbal emergency assistance agreements—Notification—Form. (1) Verbal hazardous materials emergency assistance agreements may be entered into at the scene of an incident where execution of a written agreement prior to the incident is not possible. A notification of the terms of this section shall be presented at the scene by the incident commander or his representative to the person whose assistance is requested. The incident commander and the person whose assistance is requested shall both sign the notification which appears in subsection (2) of this section, indicating the date and time of signature. If a requesting agency deliberately misrepresents individual or agency status, that agency shall assume full liability for any

damages resulting from the actions of the person whose assistance is requested, other than those damages resulting from gross negligence or wilful or wanton misconduct.

(2) The notification required by subsection (1) of this section shall be in substantially the following form:

NOTIFICATION OF "GOOD SAMARITAN" LAW
You have been requested to provide emergency assistance by a representative of a designated hazardous materials incident command agency. To encourage your assistance, the Washington state legislature has passed "Good Samaritan" legislation (chapter 4.24 RCW, part) to protect you from potential liability. The law reads, in part:

"Any person who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or wilful or wanton misconduct."

The law requires that you be advised of certain conditions to ensure your protection:

1. You are not obligated to assist and you may withdraw your assistance at any time.
2. You cannot profit from assisting.
3. You must agree to act under the direction of the incident commander.
4. You are not covered by this law if you caused the initial accident or if you are a public employee doing your official duty.

I have read and understand the above.
(Name) _____

Date _____ Time _____

I am a representative of a designated hazardous materials incident command agency and I am authorized to make this request for assistance.

(Name) _____

(Agency) _____

Date _____ Time _____

[1982 c 172 § 7.]

Title 71

MENTAL ILLNESS

(Formerly: Mental Illness and Inebriacy)

Chapters

- 71.12 Private establishments.
- 71.20 State and local services for mentally retarded and developmentally disabled.
- 71.24 Community mental health services act.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

[1982 RCW Supp—page 552]

Chapter 71.12

PRIVATE ESTABLISHMENTS

Sections

- 71.12.470 License application—Fees.
- 71.12.490 Expiration and renewal of license.

71.12.470 License application—Fees. Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee. The amount of the license fee shall be established by the department under RCW 43.20A.055. [1982 c 201 § 14; 1959 c 25 § 71.12.470. Prior: 1949 c 198 § 56; Rem. Supp. 1949 § 6953–55.]

71.12.490 Expiration and renewal of license. All licenses issued under the provisions of this chapter shall expire on a date to be set by [the] department of social and health services: *Provided*, That no license issued pursuant to this chapter shall exceed thirty-six months in duration. Application for renewal of the license, accompanied by the necessary fee as established by the department of social and health services under RCW 43.20A.055, shall be filed with that department, not less than thirty days prior to its expiration and if application is not so filed, the license shall be automatically canceled. [1982 c 201 § 15; 1971 ex.s. c 247 § 4; 1959 c 25 § 71.12.490. Prior: 1949 c 198 § 59; Rem. Supp. 1949 § 6953–58.]

Chapter 71.20

STATE AND LOCAL SERVICES FOR MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED

Sections

- 71.20.015 Repealed.
- 71.20.016 "Developmental disability" defined.

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

71.20.016 "Developmental disability" defined. Prior to the development of a new statutory definition by the department of social and health services the term "developmental disability" shall mean a disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary (of Health and Human Services) to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual. [1982 c 224 § 6.]

Chapter 71.24

COMMUNITY MENTAL HEALTH SERVICES ACT

Sections	
71.24.010	Repealed.
71.24.011	Short title.
71.24.015	Legislative intent.
71.24.020	Repealed.
71.24.025	Definitions.
71.24.030	Grants to counties for programs.
71.24.035	Secretary's powers and duties as state mental health authority, county authority.
71.24.040	Repealed.
71.24.045	County authority powers and duties.
71.24.050	Repealed.
71.24.060	Repealed.
71.24.070	Repealed.
71.24.080	Repealed.
71.24.090	Repealed.
71.24.100	Joint agreements of county authorities—Required provisions.
71.24.110	Joint agreements of county authorities—Permissive provisions.
71.24.120	Repealed.
71.24.130	Repealed.
71.24.140	Repealed.
71.24.150	Repealed.
71.24.155	Grants to counties—Accounting.
71.24.160	Proof as to uses made of state funds.
71.24.165	Repealed.
71.24.190	Repealed.
71.24.210	Repealed.
71.24.215	Clients to be charged for services.
71.24.220	Reimbursement may be withheld for noncompliance with chapter or regulations.
71.24.230	Repealed.
71.24.240	County program plans to be approved by secretary prior to submittal to federal agency.
71.24.250	County authority may accept and expend gifts and grants.
71.24.901	Severability—1982 c 204.

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

71.24.011 Short title. This chapter may be known and cited as the community mental health services act. [1982 c 204 § 1.]

71.24.015 Legislative intent. It is the intent of the legislature to establish a community mental health program which provides for:

(1) Access to mental health services for residents of the state who are acutely mentally ill, seriously disturbed, or chronically mentally ill, which services recognize the special needs of underserved populations, including minorities, children, the elderly, disabled, and low-income persons;

(2) Accountability of services through state-wide standards for management, monitoring, and reporting of information;

(3) Minimum service delivery standards;

(4) Priorities for the use of available resources for the care of the mentally ill; and

(5) Coordination of services within the department and among state mental hospitals, county authorities, community mental health services, and other support

services, which may also include the families of the mentally ill. [1982 c 204 § 2.]

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

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of: (a) A mental disorder as defined in RCW 71.05.020(2); (b) being gravely disabled as defined in RCW 71.05.020(1); or (c) presenting a likelihood of serious harm as defined in RCW 71.05.020(3).

(2) "Available resources" means those funds which shall be appropriated under this chapter by the legislature during any biennium for the purpose of providing community mental health programs under RCW 71.24.045.

(3) "Licensed service provider" means an entity licensed by the department according to state minimum standards or individuals licensed under chapter 18.71, 18.83, or 18.88 RCW.

(4) "Chronically mentally ill person" means a person who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years;

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(5) "Community mental health program" means all mental health services established by a county authority.

(6) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

(7) "Department" means the department of social and health services.

(8) "Mental health services" means community services pursuant to RCW 71.24.035(4)(b) and other services provided by the state for the mentally ill.

(9) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), (4), and (11) of this section.

(10) "Residential services" means a facility or distinct part thereof which provides food, clothing, and shelter, and may include day treatment services as defined in RCW 71.24.045, for acutely mentally ill, chronically mentally ill, or seriously disturbed persons as defined in this section. Such facilities include, but are not limited

to, congregate care facilities providing mental health client services as stipulated by contract with the department beginning January 1, 1982.

(11) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or others as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a minor child diagnosed by a mental health professional, as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(12) "Secretary" means the secretary of social and health services.

(13) "State minimum standards" means: (a) Minimum requirements for management and delivery of mental health services as established by departmental rules and necessary to implement this chapter, including but not limited to county administration, licensing service providers, information, accountability, contracts, and services; and (b) minimum service requirements for licensed service providers for the provision of mental health services as established by departmental rules pursuant to chapter 34.04 RCW as necessary to implement this chapter, including, but not limited to: Qualifications for staff providing services directly to mentally ill persons; the intended result of each service for those priority groups identified in RCW 71.24.035(4)(b); and the rights and responsibilities of persons receiving mental health services pursuant to this chapter. [1982 c 204 § 3.]

71.24.030 Grants to counties for programs. The secretary is authorized, pursuant to this chapter and the rules promulgated to effectuate its purposes, to make grants to counties or combinations of counties in the establishment and operation of community mental health programs. [1982 c 204 § 6; 1973 1st ex.s. c 155 § 5; 1972 ex.s. c 122 § 30; 1971 ex.s. c 304 § 7; 1967 ex.s. c 111 § 3.]

Effective date—1972 ex.s. c 122: See note following RCW 70.96A.010.

Drug and alcohol rehabilitation, education programs: Chapter 69.54 RCW.

71.24.035 Secretary's powers and duties as state mental health authority, county authority. (1) The department is designated as the state mental health authority.

(2) The secretary may provide for public, client, and licensed service provider participation in developing the state mental health program.

(3) The secretary shall be designated as the county authority if a county fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(4) The secretary shall:

(a) Develop a biennial state mental health program that incorporates county biennial needs assessments and county mental health service plans and state services for the mentally ill. The secretary may also develop a six-year state mental health plan;

(b) Assure that any county community mental health program provides access to treatment for the county's residents in the following order of priority: (i) The acutely mentally ill; (ii) the chronically mentally ill; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Consultation and education services; and

(F) Community support services for acutely and chronically mentally ill persons which include: (I) Discharge planning for clients leaving state mental hospitals and other acute care inpatient facilities; (II) sufficient contacts with clients, families, or significant others to provide for an effective program of community maintenance; and (III) medication monitoring.

(c) Develop and promulgate rules establishing state minimum standards for the management and delivery of mental health services including, but not limited to:

(i) Licensed service providers;

(ii) County administration;

(iii) Information required to assure accountability of services delivered to the mentally ill; and

(iv) Residential and inpatient services, if a county chooses to provide such optional services;

(d) Assure coordination of services consistent with state minimum standards for individuals who are released from a state hospital into the community to assure a continuum of care;

(e) Assure that the special needs of minorities, children, the elderly, disabled, and low-income persons are met within the priorities established in RCW 71.24.035(4)(b);

(f) Establish a standard contract or contracts, consistent with state minimum standards, which shall be used by the counties;

(g) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of county authorities and licensed service providers;

(h) Develop and maintain an information system to be used by the state and counties which shall include a tracking method which allows the department to identify

mental health clients' participation in any mental health service or public program. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in RCW 71.05.390, 71.05.400, 71.05.410, 71.05.420, 71.05.430, and 71.05.440;

(i) License service providers who meet state minimum standards;

(j) Establish criteria to evaluate the performance of counties in administering mental health programs as established under this chapter. Evaluation of community mental health services shall include all categories of illnesses treated, all types of treatment given, the number of people treated, and costs related thereto; and

(k) Prior to September 1, 1982, adopt such rules as are necessary to implement this chapter pursuant to chapter 34.04 RCW: *Provided*, That such rules shall be submitted to the appropriate committees of the legislature for review and comment prior to adoption.

(5) The secretary shall use available resources appropriated specifically for community mental health programs only for programs under RCW 71.24.045.

(6) The department shall propose in its biennial budget document the formulas used to distribute available resources to county authorities for the priorities listed in subsection (4)(b) of this section. The formula shall be based on the needs assessment required by RCW 71.24.045(1). [1982 c 204 § 4.]

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

71.24.045 County authority powers and duties. The county authority shall:

(1) Submit biennial needs assessments beginning January 1, 1983, and mental health service plans which incorporate all services provided for by the county authority consistent with state minimum standards and which provide access to treatment for the county's residents who are acutely mentally ill, chronically mentally ill, or seriously disturbed. The county program shall provide:

(a) Outpatient services;

(b) Emergency care services for twenty-four hours per day;

(c) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment;

(d) Screening for patients being considered for admission to state mental health facilities to determine appropriateness of admission;

(e) Consultation and education services;

(f) Residential and inpatient services, if the county chooses to provide such optional services; and

(g) Community support services for acutely and chronically mentally ill persons which include: (i) Discharge planning for clients leaving state mental hospitals and other acute care inpatient facilities; (ii) sufficient contacts with clients, families, or significant others to

provide for an effective program of community maintenance; and (iii) medication monitoring.

The county shall develop the biennial needs assessment based on clients to be served, services to be provided, and the cost of those services, and may include input from the public, clients, and licensed service providers. Each county authority may appoint a county mental health advisory board which shall review and provide comments on plans and policies developed by the county authority under this chapter. The composition of the board shall be broadly representative of the demographic character of the county and the mentally ill persons served therein. Length of terms of board members shall be determined by the county authority;

(2) Contract as needed with licensed service providers. The county authority may, in the absence of a licensed service provider entity, become a licensed service provider entity pursuant to minimum standards required for licensing by the department for the purpose of providing services not available from licensed service providers;

(3) Operate as a licensed service provider if it deems that doing so is more efficient and cost effective than contracting for services. When doing so, the county authority shall comply with rules promulgated by the secretary that shall provide measurements to determine when a county provided service is more efficient and cost effective. Whenever a county authority chooses to operate as a licensed service provider, the secretary shall act as the county authority for that service.

(4) Monitor and perform biennial fiscal audits of licensed service providers who have contracted with the county to provide services required by this chapter. The monitoring and audits shall be performed by means of a formal process which insures that the licensed service providers and professionals designated in this subsection meet the terms of their contracts, including the minimum standards of management and service delivery as established by the department;

(5) Assure that the special needs of minorities, children, the elderly, disabled, and low-income persons are met within the priorities established in RCW 71.24.035(4)(b);

(6) Maintain patient tracking information in a central location for the chronically mentally ill;

(7) Use not more than two percent of state-appropriated community mental health funds, which shall not include federal funds, to administer community mental health programs under RCW 71.24.155: *Provided*, That county authorities serving a county or combination of counties whose population is equal to or greater than that of a county of the first class may be entitled to sufficient state-appropriated community mental health funds to employ up to one full-time employee or the equivalent thereof in addition to the two percent limit established in this subsection when such employee is providing staff services to a county mental health advisory board; and

(8) Coordinate services for individuals who have received services through the community mental health system and who become patients at a state mental hospital. [1982 c 204 § 5.]

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

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

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

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

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

71.24.100 Joint agreements of county authorities—Required provisions. Any agreement between two or more county authorities for the establishment of a community mental health program shall provide:

(1) That each county shall bear a share of the cost of mental health services; and

(2) That the treasurer of one participating county shall be the custodian of funds made available for the purposes of such mental health services, and that the treasurer may make payments from such funds upon audit by the appropriate auditing officer of the county for which he is treasurer. [1982 c 204 § 7; 1967 ex.s. c 111 § 10.]

71.24.110 Joint agreements of county authorities—Permissive provisions. Such agreement for the establishment of a community mental health program may also provide:

(1) For the joint supervision or operation of services and facilities or for the supervision or operation of service and facilities by one participating county under contract for the other participating counties; and

(2) For such other matters as are necessary or proper to effectuate the purposes of this chapter. [1982 c 204 § 8; 1967 ex.s. c 111 § 11.]

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

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

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

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

71.24.155 Grants to counties—Accounting. Grants shall be made by the department to counties for community mental health programs totaling not less than ninety-five percent of available resources. The department may use up to forty percent of the remaining five percent to provide community demonstration projects and the remainder shall be for emergency needs and technical assistance under this chapter. The department

shall provide a biennial accounting of the use of these funds to the ways and means committees of the senate and the house of representatives. [1982 c 204 § 9.]

71.24.160 Proof as to uses made of state funds. The county authority shall make satisfactory showing to the secretary that state funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to January 1, 1982. [1982 c 204 § 10; 1967 ex.s. c 111 § 16.]

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

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

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

71.24.215 Clients to be charged for services. Clients receiving mental health services funded by available resources shall be charged a fee under sliding-scale fee schedules, based on ability to pay, approved by the department. Fees shall not exceed the actual cost of care. [1982 c 204 § 11.]

71.24.220 Reimbursement may be withheld for non-compliance with chapter or regulations. The secretary may withhold state grants in whole or in part for any community mental health program in the event of a failure to comply with this chapter or regulations made by the department pursuant thereto relating to the community mental health program or the administration thereof. [1982 c 204 § 12; 1967 ex.s. c 111 § 22.]

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

71.24.240 County program plans to be approved by secretary prior to submittal to federal agency. In order to establish eligibility for funding under this chapter, any county or counties seeking to obtain federal funds for the support of any aspect of a community mental health program as defined in this chapter shall submit program plans to the secretary for prior review and approval before such plans are submitted to any federal agency. [1982 c 204 § 13; 1967 ex.s. c 111 § 24.]

71.24.250 County authority may accept and expend gifts and grants. The county authority may accept and expend gifts and grants received from private, county, state, and federal sources. [1982 c 204 § 14; 1967 ex.s. c 111 § 25.]

71.24.901 Severability—1982 c 204. 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. [1982 c 204 § 28.]

**Title 72
STATE INSTITUTIONS**

Chapters

- 72.01 Administration.
- 72.02 Adult corrections.
- 72.04A Probation and parole.
- 72.13 Correctional institution for male felons—
Reception and classification center.
- 72.33 State residential schools—Residential place-
ment, etc.
- 72.41 Board of trustees—School for the blind.
- 72.42 Board of trustees—School for the deaf.
- 72.65 Work release program.
- 72.72 Criminal behavior of residents of institutions.

*Public bodies may retain collection agencies to collect public debts:
RCW 19.16.500.*

**Chapter 72.01
ADMINISTRATION**

Sections

- 72.01.454 Use of facilities by counties, community service organi-
zations, nonprofit associations, etc.

72.01.454 Use of facilities by counties, community service organizations, nonprofit associations, etc. (1) The secretary may permit the use of the facilities of any state institution by any community service organization, nonprofit corporation, group or association for the purpose of conducting a program of education, training, entertainment or other purpose, for the residents of such institutions, if determined by the secretary to be beneficial to such residents or a portion thereof.

(2) The secretary may permit the nonresidential use of the facilities of any state institution by any county, community service organization, nonprofit corporation, group or association for the purpose of conducting programs under RCW 72.06.070. [1982 c 204 § 15; 1979 c 141 § 170; 1970 ex.s. c 50 § 5.]

**Chapter 72.02
ADULT CORRECTIONS**

Sections

- 72.02.150 Disturbances at state penal facilities—Development
of contingency plans—Scope—Local
participation.
- 72.02.160 Disturbances at state penal facilities—Utilization of
outside law enforcement personnel—Scope.
- 72.02.170 Disturbances at state penal facilities—Contingency
plans— Report of failure to support.

72.02.150 Disturbances at state penal facilities—Development of contingency plans—Scope—Local participation. The secretary or the secretary's designee shall be responsible for the preparation of contingency plans for dealing with disturbances at state penal facilities. The plans shall be developed or revised in cooperation with representatives of state and local agencies at

least annually. Contingency plans developed shall encompass contingencies of varying levels of severity, specific contributions of personnel and material from participating agencies, and a unified chain of command. Agencies providing personnel under the plan shall provide commanders for the personnel who will be included in the unified chain of command. [1982 c 49 § 1.]

72.02.160 Disturbances at state penal facilities—Utilization of outside law enforcement personnel—

Scope. Whenever the secretary or the secretary's designee determines that due to a disturbance at a state penal facility within the jurisdiction of the department that the assistance of law enforcement officers in addition to department of corrections' personnel is required, the secretary may notify the Washington state patrol, the chief law enforcement officer of any nearby county and the county in which the facility is located, and the chief law enforcement officer of any municipality near the facility or in which the facility is located. These law enforcement agencies may provide such assistance as expressed in the contingency plan or plans, or as is deemed necessary by the secretary, or the secretary's designee, to restore order at the facility, consistent with the resources available to the law enforcement agencies and the law enforcement agencies' other statutory obligations. While on the grounds of a penal facility and acting under this section, all law enforcement officials shall be under the immediate control of their respective supervisors who shall be responsive to the secretary, or the secretary's designee, which designee need not be an employee of the department of corrections. [1982 c 49 § 2.]

Reimbursement for local support at prison disturbances: RCW 72.72.050, 72.72.060.

72.02.170 Disturbances at state penal facilities—Contingency plans—Report of failure to support.

The secretary shall report to the governor and the legislature annually if, in the secretary's opinion, state and local agencies have declined to participate or cooperate in the development or implementation of contingency plans under RCW 72.02.150. [1982 c 49 § 5.]

**Chapter 72.04A
PROBATION AND PAROLE**

Sections

- 72.04A.120 Parolee assessments.

72.04A.120 Parolee assessments. (1) Any person placed on parole shall be required to pay the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the parole and which shall be considered as payment or part payment of the cost of providing parole supervision to the parolee. The board may exempt a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment which provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the board.

(d) The offender's age prevents him from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the board.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments which shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment which is less than ten dollars nor more than fifty dollars.

(3) Payment of the assessed amount shall constitute a condition of parole for purposes of the application of RCW 72.04A.090.

(4) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the state general fund.

(5) This section shall not apply to parole services provided under an interstate compact pursuant to chapter 9.95 RCW or to parole services provided for offenders paroled before June 10, 1982. [1982 c 207 § 1.]

Chapter 72.13

CORRECTIONAL INSTITUTION FOR MALE FELONS—RECEPTION AND CLASSIFICATION CENTER

Sections

72.13.090	Repealed.
72.13.091	Prisoner's living arrangements.

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

72.13.091 Prisoner's living arrangements. Effective July 1, 1985, each prisoner in the correctional institution shall be provided with a single cell: *Provided, however,* That multiple type living arrangements may be provided in forestry or other labor camps maintained in conjunction with the institution. [1982 2nd ex.s. c 2 § 2.]

Chapter 72.33

STATE RESIDENTIAL SCHOOLS— RESIDENTIAL PLACEMENT, ETC.

Sections

72.33.030	Lakeland Village, Rainier, Yakima Valley, and Fircrest Schools and Frances Haddon Morgan Children's Center established.
72.33.670	Financial responsibility for costs of care, support, and treatment of residents—Notice and finding of financial responsibility—Service—Appeal—Hearing.

72.33.030 Lakeland Village, Rainier, Yakima Valley, and Fircrest Schools and Frances Haddon Morgan Children's Center established. There are hereby permanently established the following state schools for the care of the persons herein provided to be served: Lakeland Village, located at Medical Lake, Spokane county, Washington, Rainier School, located at Buckley, Pierce county, Washington, Yakima Valley School, located at Selah, Yakima county, Washington, Fircrest School, located at Seattle, King county, Washington, and Frances Haddon Morgan Children's Center, located at Bremerton, Kitsap county, Washington. [1982 c 89 § 1; 1959 c 31 § 1; 1959 c 28 § 72.33.030. Prior: 1957 c 102 § 3. (i) 1905 c 70 § 1; RRS § 4655. (ii) 1947 c 157 § 1; 1939 c 62 § 1; 1917 c 64 § 1; Rem. Supp. 1947 § 4656. (iii) 1905 c 70 § 2; RRS § 4658. (iv) 1947 c 157 § 2; Rem. Supp. 1947 § 4679a. (v) 1937 c 10 § 2; RRS § 4679-2.]

72.33.670 Financial responsibility for costs of care, support, and treatment of residents—Notice and finding of financial responsibility—Service—Appeal—Hearing. In all cases where a determination is made that the estate of a mentally or physically deficient person who resides at a state residential school is able to pay all or any portion of the monthly charges, a notice and finding of financial responsibility shall be personally served on the guardian of the resident's estate, or if no guardian has been appointed then to his spouse or parents or other person acting in a representative capacity and having property in his possession belonging to a resident of a state residential school and the superintendent of the state residential school. The notice shall set forth the amount the department has determined that such estate is able to pay per month, not to exceed the monthly charge as fixed in accordance with RCW 72.33.660, and the responsibility for payment to the department of social and health services shall commence thirty days after personal service of such notice and finding of responsibility. An appeal from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by his spouse, parent or parents or other person acting in a representative capacity and having property in his possession belonging to a resident of a state residential school, within such thirty day period upon written notice of appeal being served upon the secretary by registered or certified mail. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice

and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeals may be presided over by an administrative law judge appointed under chapter 34.12 RCW and the proceedings shall be recorded either manually or by a mechanical device. Any such appeal shall be a "contested case" as defined in RCW 34.04.010, and practice and procedure shall be governed by the provisions of RCW 72.33.650 through 72.33.700, the rules and regulations of the department of social and health services, and the Administrative Procedure Act, chapter 34.04 RCW. [1982 c 189 § 7; 1979 c 141 § 239; 1970 ex.s. c 75 § 1; 1967 c 141 § 5.]

Effective date—1982 c 189: See note following RCW 34.12.020.

Chapter 72.41

BOARD OF TRUSTEES—SCHOOL FOR THE BLIND

Sections

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| 72.41.020 | Board of trustees—Created—Membership—Terms—Vacancies—Officers—Rules and regulations. |
| 72.41.025 | Membership, effect of creation of new congressional districts or boundaries. |

72.41.020 Board of trustees—Created—Membership—Terms—Vacancies—Officers—Rules and regulations. There is hereby created a board of trustees for the state school for the blind to be composed of twelve trustees. In making such appointments the governor shall give consideration to geographical exigencies and shall appoint one trustee residing in each of the state's congressional districts now or hereafter existing. A representative of the parent-teachers association of the Washington state school for the blind, a representative of the Washington council of the blind, a representative of the Washington state association for the blind and one representative designated by the teacher association, Washington state school for the blind shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

The initial appointees of the governor to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.

Thereafter the successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised

boundaries for congressional districts. No voting trustee may be an employee of the state school for the blind, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, or an elected officer or member of the legislative authority or any municipal corporation.

The board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. Four voting members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the blind shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board. [1982 1st ex.s. c 30 § 13; 1973 c 118 § 2.]

72.41.025 Membership, effect of creation of new congressional districts or boundaries. The terms of office of trustees on the board for the state school for the blind who are appointed from the various congressional districts shall not be affected by the creation of either new boundaries for congressional districts or additional districts. In such an event, each trustee may continue to serve in office for the balance of the term for which he or she was appointed: *Provided*, That the trustee continues to reside within the boundaries of the congressional district as they existed at the time of his or her appointment. Vacancies which occur in a trustee position during the balance of any such term shall be filled pursuant to RCW 72.41.020, as now or hereafter amended, by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was appointed as they existed at the time of his or her election. At the completion of such term, and thereafter, a successor shall be appointed from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed. [1982 1st ex.s. c 30 § 14.]

Chapter 72.42

BOARD OF TRUSTEES—SCHOOL FOR THE DEAF

Sections

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| 72.42.020 | Board of trustees—Created—Membership—Terms—Vacancies—Officers—Rules and regulations. |
| 72.42.025 | Membership, effect of creation of new congressional districts or boundaries. |

72.42.020 Board of trustees—Created—Membership—Terms—Vacancies—Officers—Rules and regulations. There is hereby created a board of trustees for the state school for the deaf to be composed of eleven trustees, of whom eight shall be appointed by the governor. In making such appointments the governor

shall give consideration to geographical exigencies and shall appoint one trustee residing in each of the state's congressional districts. The president of the parent-teachers house organization of the deaf school, the vice president of the parent-teachers house organization of the deaf school, and the president of the Washington state association for the deaf shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

The initial appointees to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.

Thereafter the successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's congressional districts, as now or hereafter existing. The board shall not be deemed to be unlawfully constituted and a trustee shall not be deemed ineligible to serve the remainder of the trustee's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts. No trustee may be an employee of the state school for the deaf, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, or an elected officer or member of the legislative authority of any municipal corporation.

The board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. Four members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the deaf shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board. [1982 1st ex.s. c 30 § 15; 1972 ex.s. c 96 § 2.]

72.42.025 Membership, effect of creation of new congressional districts or boundaries. The terms of office of trustees on the board for the state school for the deaf who are appointed from the various congressional districts shall not be affected by the creation of either new boundaries for congressional districts or additional districts. In such an event, each trustee may continue to serve in office for the balance of the term for which he or she was appointed: *Provided*, That the trustee continues to reside within the boundaries of the congressional district as they existed at the time of his or her appointment. Vacancies which occur in a trustee position during the balance of any such term shall be filled pursuant to RCW 72.42.020, as now or hereafter amended, by a

successor who resides within the boundaries of the congressional district from which the member whose office was vacated was appointed as they existed at the time of his or her appointment. At the completion of such term, and thereafter, a successor shall be appointed from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed. [1982 1st ex.s. c 30 § 16.]

Chapter 72.65

WORK RELEASE PROGRAM

Sections

72.65.080 Contracts with authorities for payment of expenses for housing participants—Procurement of housing facilities.

72.65.080 Contracts with authorities for payment of expenses for housing participants—Procurement of housing facilities. The secretary may enter into contracts with the appropriate authorities for the payment of the cost of feeding and lodging and other expenses of housing work release participants. Such contracts may include any other terms and conditions as may be appropriate for the implementation of the work release program. In addition the secretary is authorized to acquire, by lease or contract, appropriate facilities for the housing of work release participants and providing for their subsistence and supervision. Such work release participants placed in leased or contracted facilities shall be required to reimburse the department the per capita cost of subsistence and lodging in accordance with the provisions and in the priority established by RCW 72.65.050(2). The location of such facilities shall be subject to the zoning laws of the city or county in which they may be situated. [1982 1st ex.s. c 48 § 18; 1981 c 136 § 111; 1979 c 141 § 279; 1969 c 109 § 1; 1967 c 17 § 8.]

Severability—1982 1st ex.s. c 48: See note following RCW 28C.51.010.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1969 c 109: "This act shall become effective on July 1, 1969." [1969 c 109 § 2.]

Chapter 72.72

CRIMINAL BEHAVIOR OF RESIDENTS OF INSTITUTIONS

Sections

72.72.050 Disturbances at state penal facilities—Reimbursement to cities and counties for certain expenses incurred—Funding.

72.72.060 Disturbances at state penal facilities—Reimbursement to cities and counties for physical injury benefit costs—Limitations.

72.72.050 Disturbances at state penal facilities—Reimbursement to cities and counties for certain expenses incurred—Funding. The state shall reimburse cities and counties for their expenses incurred directly as

a result of their providing personnel and material pursuant to a contingency plan adopted under RCW 72.02.150. Reimbursement to cities and counties shall be expended solely from the institutional impact account within funds available in that account. If the costs of reimbursements to cities and counties exceed available funds, the secretary shall request the legislature to appropriate sufficient funds to enable the secretary to make full reimbursement. [1982 c 49 § 3.]

72.72.060 Disturbances at state penal facilities—Reimbursement to cities and counties for physical injury benefit costs—Limitations. The state shall reimburse cities and counties for their costs incurred under chapter 41.26 RCW if the costs are the direct result of physical injuries sustained in the implementation of a contingency plan adopted under RCW 72.02.150 and if reimbursement is not precluded by the following provisions: If the secretary identifies in the contingency plan the prison walls or other perimeter of the secured area, then reimbursement will not be made unless the injuries occur within the walls or other perimeter of the secured area. If the secretary does not identify prison walls or other perimeter of the secured area, then reimbursement shall not be made unless the injuries result from providing assistance, requested by the secretary or the secretary's designee, which is beyond the description of the assistance contained in the contingency plan. In no case shall reimbursement be made when the injuries result from conduct which either is not requested by the secretary or the secretary's designee, or is in violation of orders by superiors of the local law enforcement agency. [1982 c 49 § 4.]

by an enemy of the United States during a period of conflict with the United States; he or she has become blind in both eyes as the result of military service; or he or she is rated by the veterans administration as totally and permanently disabled due to service-connected conditions, shall be entitled to have issued to him or her by the director of licensing general license plates or license plates with distinguishing marks, letters, or numerals indicating that the motor vehicle is owned by a disabled veteran or distinguishing marks, letters, or numerals indicating that the motor vehicle is owned by a former prisoner of war. This license shall be issued annually for one vehicle for personal use without the payment of any license fees or excise tax thereon. Whenever any person who has been issued license plates under the provisions of this section applies to the department for transfer of such plates to a subsequently acquired motor vehicle, a transfer fee of five dollars shall be charged in addition to all other appropriate fees.

Any person who has been issued free motor vehicle license plates under this section prior to March 31, 1982, shall continue to be eligible for the annual free license plates.

For the purposes of this section, "blind" shall mean that definition of "blind" utilized by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW.

Any unauthorized use of a special plate is a gross misdemeanor. [1982 c 115 § 1; 1980 c 88 § 2; 1979 c 158 § 221; 1972 ex.s. c 60 § 1; 1971 ex.s. c 193 § 1; 1951 c 206 § 1; 1949 c 178 § 1; Rem. Supp. 1949 § 6360-50-1.]

Title 73

VETERANS AND VETERANS' AFFAIRS

Chapters

73.04 General provisions.

Chapter 73.04

GENERAL PROVISIONS

Sections

73.04.110 Free license plates for disabled veterans, prisoners of war—Penalty.

73.04.110 Free license plates for disabled veterans, prisoners of war—Penalty. Any person who is a veteran as defined in RCW 41.04.005, as now or hereafter amended, who submits to the director of licensing satisfactory proof that he or she has a disability rating from the veterans administration or any branch of the armed forces of the United States and has the loss of or the loss of the use of both arms or legs or one arm and one leg or a loss or use of one arm or one leg that precludes locomotion without the use of or aid of braces, crutches, canes, a wheelchair, or a permanent prosthesis for the rated disability; he or she was captured and incarcerated

Title 74

PUBLIC ASSISTANCE

Chapters

74.04 General provisions—Administration.

74.08 Eligibility generally—Standards of assistance—Old age assistance.

74.09 Medical care.

74.12 Aid to families with dependent children.

74.13 Child welfare services.

74.15 Agencies for care of children, expectant mothers, developmentally disabled.

74.20 Support of dependent children.

74.20A Support of dependent children—Alternative method—1971 act.

74.42 Nursing homes—Resident care, operating standards.

74.46 Nursing home auditing and cost reimbursement act of 1980.

Chapter 74.04

GENERAL PROVISIONS—ADMINISTRATION

Sections

74.04.005 Definitions.

74.04.230	General assistance—Mental health services.
74.04.300	Recovery of payments improperly received—Lien.
74.04.305	Repealed.
74.04.525	Repealed.
74.04.530	Recipient receiving industrial insurance compensation—Subrogation rights of department—Lien—Withhold and deliver notice.
74.04.700	Overpayments—Procedures—Hearings.
74.04.750	Reporting requirements—Food stamp allotments and rent or housing subsidies, consideration as income.
74.04.760	Minimum amount of monthly assistance payments.
74.04.770	Consolidated standards of need—Rateable reductions—Grant maximums.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

74.04.005 Definitions. For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6) "General assistance"—Aid to unemployable persons in need who:

(a) Are not eligible to receive federal-aid assistance; and

(b) Are incapacitated from gainful employment by reason of:

(i) Bodily or mental infirmity;

(ii) Participation in an approved drug or alcoholism treatment program; or

(iii) Being sixty-five years of age, or over: *Provided*, That such incapacity in (b) (i) through (iii) of this subsection, as determined by the department, will last at least sixty days from the date of application, except that persons in approved alcoholism and/or drug programs may be eligible for less than a sixty-day period in accordance with the terms of their treatment plan.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: *Provided*, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as income which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: *Provided*, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as income which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance may retain the following described resources in addition to exemption for a motor vehicle or home and not be ineligible for public assistance because of such resources:

(i) Household furnishings, personal effects, and other personal property having great sentimental value to the applicant or recipient;

(ii) Term and burial insurance for use of the applicant or recipient;

(iii) Life insurance having a cash surrender value not exceeding one thousand five hundred dollars; and

(iv) Cash, marketable securities, and any excess of values above one thousand five hundred dollars equity in a vehicle and above one thousand five hundred dollars in cash surrender value of life insurance, not exceeding one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more. The one thousand dollar limit in subsection

(10)(d) of this section does not apply to recipients of or applicants for general assistance.

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, but the department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient.

(11) "Income"—All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient after applying for or receiving public assistance: *Provided*, That the department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance: *Provided further*, That in determining the amount of assistance to which an applicant or recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements: *Provided further*, The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary. [1981 2nd ex.s. c 10 § 5; 1981 1st ex.s. c 6 § 1. Prior: 1981 c 8 § 1; prior: 1980 c 174 § 1; 1980 c 84 § 1; 1979 c 141 § 294; 1969 ex.s. c 173 § 1; 1965 ex.s. c 2 § 1; 1963 c 228 § 1; 1961 c 235 § 1; 1959 c 26 § 74.04.005; prior: (i) 1947 c 289 §

1; 1939 c 216 § 1; Rem. Supp. 1947 § 10007-101a. (ii) 1957 c 63 § 1; 1953 c 174 § 17; 1951 c 122 § 1; 1951 c 1 § 3; 1949 c 6 § 3; Rem. Supp. 1949 § 9998-33c.]

Effective date—1981 1st ex.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 1st ex.s. c 6 § 31.]

Severability—1981 1st ex.s. c 6: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 1st ex.s. c 6 § 30.]

Consolidated standards of need: RCW 74.04.770.

74.04.230 General assistance—Mental health services. Persons eligible for general assistance under RCW 74.04.005 are eligible for mental health services to the extent that they meet the client definitions and priorities established by chapter 71.24 RCW. [1982 c 204 § 16.]

Clients to be charged for mental health services: RCW 71.24.215.

74.04.300 Recovery of payments improperly received—Lien. If a recipient receives public assistance and/or food stamps for which he is not eligible, or receives public assistance and/or food stamps in an amount greater than that for which he is eligible, the portion of the payment to which he is not entitled shall be a debt due the state and shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county where the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors. It shall be the duty of recipients of public assistance and/or food stamps to notify the department within twenty days of the receipt or possession of all income or resources not previously declared to the department. The department shall advise applicants for assistance that failure to report as required, failure to reveal resources or income, and false statements will result in recovery by the state of any overpayment and may result in criminal prosecution. When the department determines that the cost of collection is likely to exceed the amount recoverable from any overpayment or the debt is uncollectible, the secretary may waive collection.

Debts due the state pursuant to the provisions of this section, may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, order to withhold and deliver, or may be recovered by a civil action instituted by the attorney general. [1982 c 201 § 16; 1980 c 84 § 2; 1979 c 141 § 306; 1973 1st ex.s. c 49 § 1; 1969 ex.s. c 173 § 18; 1959 c 26 § 74.04.300. Prior: 1957 c 63 § 3; 1953 c 174 § 35; 1939 c 216 § 27; RRS § 10007-127a.]

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

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

74.04.530 Recipient receiving industrial insurance compensation—Subrogation rights of department—

Lien—Withhold and deliver notice. Notwithstanding any provisions in Title 51 RCW to the contrary, by accepting public assistance from the department of social and health services, the recipient thereof shall be deemed to have subrogated said department to the recipient's right to recover net time loss compensation due to such recipient and his or her dependents pursuant to the provisions of Title 51 RCW of up to eighty percent of the extent of such assistance or compensation, whichever is less, furnished to the recipient and his or her dependents for or during the period for which time loss compensation is payable: *Provided*, That the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred by the injured workman or his dependents. The department of social and health services may assert and enforce a lien and notice to withhold and deliver as hereinafter provided to secure reimbursement of any public assistance paid for or during the period and for the purposes expressed in this section: *Provided, further*, That no claim for payment under *chapter 73.34 RCW shall be subject to garnishment, attachment, levy, or execution. [1982 c 201 § 17; 1973 1st ex.s. c 102 § 1.]

*Reviser's note: Chapter 73.34 RCW was repealed by 1979 ex.s. c 59 § 3.

74.04.700 Overpayments—Procedures—Hearings. (1) Any person who owes a debt to the state for an overpayment of public assistance and/or food stamps shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance and/or food stamps; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance and/or food stamps or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering overpayments by deduction from subsequent assistance payments, not exceeding deductions as authorized under federal law with regard to financial assistance programs: *Provided*, That subject to federal legal requirement, deductions shall not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the department or error on the part of the recipient without wilful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) Any debtor who alleges defenses to the debt or disputes the stated amount of the debt has the right to

request in writing a hearing pursuant to RCW 74.08-.070. If no such request is made, the debt will be subject to collection action as authorized under this chapter. If a timely request is made, the execution of collection action on the debt shall be stayed pending the decision of the hearing or termination of the debtor from public assistance and/or food stamps, whichever occurs later. The right to an appeal shall be governed by RCW 74.08.070, 74.08.080, and the Administrative Procedure Act, chapter 34.04 RCW. [1982 c 201 § 18; 1981 c 163 § 1.]

Overpayments and debts due the state: RCW 74.04.300 and 74.04.306.

74.04.750 Reporting requirements—Food stamp allotments and rent or housing subsidies, consideration as income. (1) Applicants and recipients under this title must satisfy all reporting requirements imposed by the department.

(2) The secretary shall have the discretion to consider: (a) Food stamp allotments and/or (b) rent or housing subsidies as income in determining eligibility for and assistance to be provided by public assistance programs. If the department considers food stamp allotments as income in determining eligibility for assistance, applicants or recipients for any grant assistance program must apply for and take all reasonable actions necessary to establish and maintain eligibility for food stamps. [1981 2nd ex.s. c 10 § 1.]

74.04.760 Minimum amount of monthly assistance payments. Payment of assistance shall not be made for any month if the payment prior to any adjustments would be less than ten dollars. However, if payment is denied solely by reason of this section, the individual with respect to whom such payment is denied is determined to be a recipient of assistance for purposes of eligibility for other programs of assistance except for a community work experience program. [1981 2nd ex.s. c 10 § 2.]

74.04.770 Consolidated standards of need—Rateable reductions—Grant maximums. The department shall establish consolidated standards of need each biennium which may vary by geographical areas, program, and family size, for aid to families with dependent children, refugee assistance, supplemental security income, and general assistance to unemployable persons. Standards for aid to families with dependent children, refugee assistance, and general assistance to unemployable persons shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals. The standard of need shall take into account the economies of joint living arrangements.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost. [1981 2nd ex.s. c 10 § 4.]

Chapter 74.08

ELIGIBILITY GENERALLY—STANDARDS OF ASSISTANCE—OLD AGE ASSISTANCE

Sections

- 74.08.041 Repealed.
- 74.08.042 Repealed.
- 74.08.046 Energy assistance allowance.

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

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

74.08.046 Energy assistance allowance. There is designated to be included in the public assistance payment level a monthly energy assistance allowance. The allowance shall be excluded from consideration as income for the purpose of determining eligibility and benefit levels of food stamp program recipients to the maximum extent exclusion is authorized by federal law. The allowance shall be calculated on a seasonal basis for the period of November 1st through April 30th. [1982 c 127 § 1.]

Legislative intent—1982 c 127: "It is the continuing intention of the legislature that first priority in the use of increased appropriations, expenditures, and payment levels for the 1981-83 biennium to income assistance recipients be for an energy allowance to offset the high and escalating costs of energy. Of the total amount appropriated or transferred for public assistance, an amount not to exceed \$50,000,000 is designated as energy assistance allowance to meet the high cost of energy. This designation is consistent with the legislative intent of section 11, chapter 6, Laws of 1981 1st ex. sess. to assist public assistance recipients in meeting the high costs of energy." [1982 c 127 § 2.]

Effective date—1982 c 127: "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 April 1, 1982." [1982 c 127 § 4.]

**Chapter 74.09
MEDICAL CARE**

Sections

- 74.09.035 Medical care services—Eligibility, standards—Limits.
- 74.09.055 Copayment, deductible, coinsurance requirements authorized.
- 74.09.120 Purchases of services, care, supplies—Purchase of care in institutions for mentally retarded—Regulations (as amended by 1981 2nd ex.s. c 11).
- 74.09.120 Purchases of services, care, supplies—Inspection (as amended by 1980 c 177). (Effective July 1, 1984.)
- 74.09.510 Medical assistance—Accordance with eligibility requirements—Ineligibility.
- 74.09.520 Medical assistance—Care and services included.
- 74.09.532 Medical assistance or limited casualty program—Ineligibility due to assignment or transfer of resources.
- 74.09.534 Medical assistance or limited casualty program—Ineligibility due to assignment or transfer of resources—Periods of ineligibility—Waiver.

- 74.09.536 Medical assistance or limited casualty program—Ineligibility due to assignment or transfer of resources—Due process procedures.
- 74.09.538 Medical assistance or limited casualty program—Penalties for receiving resources transferred or assigned.
- 74.09.580 Nursing home payment system—Individually-based and class-based rates—Refunds—Repayment schedules—Interest. (Effective until July 1, 1984.)
- 74.09.610 Nursing homes—Reimbursement rates.
- 74.09.620 Nursing homes—Billing the department, recipient eligibility.
- 74.09.700 Medical care—Limited casualty program.
- 74.09.850 Conflict with federal requirements.

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

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

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

(4) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

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

(6) Medical care services received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished: *Provided*, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment. [1982 1st ex.s. c 19 § 3; 1981 1st ex.s. c 6 § 19.]

Effective date—1982 1st ex.s. c 19: "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 April 1, 1982." [1982 1st ex.s. c 19 § 6.]

Reviser's note: Engrossed Substitute Senate Bill No. 4285, (1982 1st ex.s. c 19), was signed by the governor on April 3, 1982.

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

74.09.055 Copayment, deductible, coinsurance requirements authorized. The department is authorized to establish copayment, deductible, or coinsurance requirements for recipients of any medical programs defined in RCW 74.09.010 but shall not establish copayment, deductible or coinsurance requirements for legend drugs as defined in RCW 69.41.210, unless required by federal law. [1982 c 201 § 19.]

74.09.120 Purchases of services, care, supplies—Purchase of care in institutions for mentally retarded—Regulations (as amended by 1981 2nd ex.s. c 11). 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 comply with RCW 74.09.610. The regulations 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.

The department may purchase care in institutions for the mentally retarded, also known as intermediate care facilities for the mentally retarded. The department shall develop rules for reasonable accounting and reimbursement systems for such care and report such rules to the next regular session of the legislature for review prior to implementation. Institutions for the mentally retarded include licensed nursing homes, public institutions, licensed boarding homes with fifteen beds or less, and hospital facilities certified as intermediate care facilities for the mentally retarded under the federal medicaid program to provide health, habilitative, or rehabilitative services and twenty-four hour supervision for mentally retarded individuals or persons with related conditions and includes in the program "active treatment" as federally defined. [1981 2nd ex.s. c 11 § 6; 1981 1st ex.s. c 2 § 11; 1975 1st ex.s. c 213 § 1; 1967 ex.s. c 30 § 1; 1959 c 26 § 74.09.120. Prior: 1955 c 273 § 13.]

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 74.09.610.

74.09.120 Purchases of services, care, supplies—Inspection (as amended by 1980 c 177). (Effective July 1, 1984.) (1) The department shall purchase necessary physician and dentist services by contract or "fee for service".

(2) 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.

(3) The department shall purchase nursing home care by contract.

(4) All other services and supplies provided under the program shall be secured by contract. [1980 c 177 § 84; 1975 1st ex.s. c 213 § 1; 1967 ex.s. c 30 § 1; 1959 c 26 § 74.09.120. Prior: 1955 c 273 § 13.]

Reviser's note: RCW 74.09.120 was amended by 1981 1st ex.s. c 2 § 11 and later by 1981 2nd ex.s. c 11 § 6 without reference to the amendment by 1980 c 177. However, the amendment by 1980 c 177 is not effective until July 1, 1984; until then, 1981 2nd ex.s. c 11 controls.

Effective dates—1980 c 177: See RCW 74.46.901.

Conflicts with federal requirements and this section: RCW 74.46.850. Purchasing by state departments: RCW 43.19.200.

74.09.510 Medical assistance—Accordance with eligibility requirements—Ineligibility. Medical assistance may be provided in accordance with eligibility requirements established by the department of social and health services, including the prohibition under RCW 74.09.532 through 74.09.536 against the knowing and wilful assignment of property or cash for the purpose of qualifying for such assistance, as defined in the social

security Title XIX state plan for mandatory categorically needy persons and: (1) Individuals who would be eligible for cash assistance except for their institutional status; (2) individuals who are under twenty-one years of age, who would be eligible for aid to families with dependent children, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) an intermediate care facility or an intermediate care facility for the mentally retarded, or (d) inpatient psychiatric facilities; (3) the aged, blind, and disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized; (4) individuals who would be eligible for but choose not to receive cash assistance; and (5) pregnant women who would be eligible for aid to families with dependent children if the child had been born and was living with the mother during the month of the payment, and the pregnancy has been medically verified. [1981 2nd ex.s. c 3 § 5; 1981 1st ex.s. c 6 § 20; 1981 c 8 § 19; 1971 ex.s. c 169 § 4; 1970 ex.s. c 60 § 1; 1967 ex.s. c 30 § 4.]

Severability—1981 2nd ex.s. c 3: See note following RCW 74.09.532.

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

74.09.520 Medical assistance—Care and services included. The term "medical assistance" may include the following care and services: (1) Inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and x-ray services; (4) skilled nursing home services; (5) physicians' services, which shall include prescribed medication and instruction on birth control devices; (6) medical care, or any other type of remedial care as may be established by the secretary; (7) home health care services; (8) private duty nursing services; (9) dental services; (10) physical therapy and related services; (11) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (12) other diagnostic, screening, preventive, and rehabilitative services: *Provided*, That the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act. [1982 1st ex.s. c 19 § 4; 1981 1st ex.s. c 6 § 21; 1981 c 8 § 20; 1979 c 141 § 344; 1969 ex.s. c 173 § 11; 1967 ex.s. c 30 § 5.]

Effective date—1982 1st ex.s. c 19: See note following RCW 74.09.035.

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

74.09.532 Medical assistance or limited casualty program—Ineligibility due to assignment or transfer of resources. A person is ineligible for medical assistance or the limited casualty program for the medically needy for

a period determined under RCW 74.09.534 if the person knowingly and wilfully assigns or transfers cash or other resources at less than fair market value after December 1, 1981, for the purpose of qualifying or continuing to qualify for such medical care within two years preceding the date of application for such care: *Provided*, That for the purpose of qualifying for such care and notwithstanding the provisions of chapter 26.16 RCW, this section shall not prohibit the voluntary transfer or assignment between spouses. [1981 2nd ex.s. c 3 § 1.]

Severability—1981 2nd ex.s. c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 3 § 8.]

74.09.534 Medical assistance or limited casualty program—Ineligibility due to assignment or transfer of resources—Periods of ineligibility—Waiver. (1) If the uncompensated fair market value of the resources assigned or transferred is:

(a) Twelve thousand dollars or less, the period of ineligibility shall be prorated up to twelve months from the date of transfer;

(b) More than twelve thousand dollars but less than thirty thousand dollars, the period of ineligibility shall be prorated up to twenty-four months;

(c) More than thirty thousand dollars but less than fifty thousand dollars, the period of ineligibility shall be prorated up to thirty-six months;

(d) More than fifty thousand dollars, the period of ineligibility shall be forty-eight months.

(2) The department may waive a period of ineligibility if the department determines that the application of the period of ineligibility will cause undue hardship. [1981 2nd ex.s. c 3 § 2.]

Severability—1981 2nd ex.s. c 3: See note following RCW 74.09.532.

74.09.536 Medical assistance or limited casualty program—Ineligibility due to assignment or transfer of resources—Due process procedures. The department, by rule, shall adopt procedures to provide due process for applicants or recipients found not to qualify for medical assistance or the limited casualty program for the medically needy. At any hearing the department shall prove by a preponderance of the evidence that the person knowingly and wilfully assigned or transferred cash or other resources at less than fair market value for the purpose of qualifying or continuing to qualify for the benefits or care. If the prevailing party in such an action is the person, the person shall be awarded reasonable attorney fees. [1981 2nd ex.s. c 3 § 3.]

Severability—1981 2nd ex.s. c 3: See note following RCW 74.09.532.

74.09.538 Medical assistance or limited casualty program—Penalties for receiving resources transferred or assigned. (1) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value after December 1, 1981, to enable an applicant or recipient to qualify for assistance

under RCW 74.09.510 or 74.09.700 is guilty of a gross misdemeanor.

(2) Any person who knowingly and wilfully receives cash or resources transferred or assigned for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to an applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney fees. [1981 2nd ex.s. c 3 § 4.]

Severability—1981 2nd ex.s. c 3: See note following RCW 74.09.532.

74.09.580 Nursing home payment system—Individually-based and class-based rates—Refunds—Repayment schedules—Interest. (Effective until July 1, 1984.) The nursing home payment system under this chapter shall provide for individually-based or class-based rates which shall be the maximum reimbursement for each nursing home for the period for which the rates are assigned.

(1)(a) Beginning with the settlements for calendar year 1981, the nursing home shall submit a preliminary settlement report simultaneously with the annual cost report.

(b) Within ninety days after receipt of the reports by the secretary, the department shall submit a proposed settlement report by cost center to the nursing home which fully substantiates disallowed costs, refunds, underpayments, and/or adjustments to the preliminary settlement report.

(c) The proposed settlement shall provide the basis for a schedule to correct overpayments and underpayments.

(2) (a) The department shall calculate a settlement for the 1980 cost reporting period by comparing the rate paid to a contractor with that contractor's reported allowable costs. Refunds due the department based upon overpayments made to nursing home contractors from January 1, 1980, through December 31, 1980, indicated by this settlement shall be due and payable in full within thirty days after written notice is received from the department.

(b) Where deemed appropriate by the department, repayment may be made according to a schedule determined by the department.

(c) Failure on the part of a nursing home contractor to tender payment due in full within thirty days after notice is received from the department shall render the contractor liable for the payment of interest to the department at the rate of one percent per month for any unpaid balance from thirty days after the date of notification until payment in full is received by the department. Liability for interest payments under this subsection (2)(c) shall remain in effect whether a contractor is in default of repayment or is making repayment according to a schedule determined by the

department in lieu of payment in full upon notification of payment due.

(d) Unless payment due from a nursing home contractor is received in full within thirty days after notification from the department or unless principal and interest payments are received according to a schedule determined by the department, recoupment from current reimbursement payments due a contractor in default will commence according to a schedule determined by the department.

(e) Nothing in this subsection shall prejudice the rights of contractors or the department regarding audit adjustments and/or revised settlements which may be promulgated by the department from time to time in individual contractor cases.

(3) Operators of nursing homes shall refund all portions of payments received which exceed actual audited costs and all portions of payments received which are attributable to unreasonable or nonallowable costs as determined by federal or state regulations. [1981 2nd ex.s. c 11 § 7; 1981 1st ex.s. c 2 § 2; 1977 ex.s. c 260 § 4.]

Reviser's note: 1981 1st ex.s. c 2 §§ 9 and 27 provide for the repeal of this section on July 1, 1984.

Severability—Effective dates—1981 1st ex.s. c 2: See notes following RCW 74.09.610.

Severability—1977 ex.s. c 260: See note following RCW 74.09.550.

Conflicts with federal requirements and this section: RCW 74.46.850.

74.09.610 Nursing homes—Reimbursement rates.

(1) The nursing home auditing and cost reimbursement system of the department of social and health services shall be governed by this section until implementation of chapter 74.46 RCW. The department shall reimburse nursing homes on the basis of the following cost centers: Patient care, food, administration and operations, and property.

(2) (a) For rate setting purposes for fiscal year 1982, the department shall reimburse the patient care cost center at the January 1, 1981, reimbursement rate, as adjusted for inflation.

(b) For rate setting purposes in fiscal year 1983, this subsection (2)(b) applies.

(i) There shall be established by the department a redistribution pool consisting of overpayments to contractors for 1981 indicated by proposed settlements for 1981, less one million dollars.

(ii) If a contractor's patient care cost center rate for 1981 is greater than or equal to the contractor's desk reviewed 1981 patient care costs, the department shall reimburse the patient care cost center at the desk reviewed 1981 patient care costs plus any patient care funds shifted to other cost centers pursuant to subsection (8) of this section.

(iii) If the contractor's 1981 patient cost center rate is less than the contractor's desk reviewed 1981 patient care costs, the department shall reimburse the contractor's patient care cost at the January 1, 1982, reimbursement rate less one and one half percent plus an allowance from the redistribution pool. The allowance

for a contractor shall not exceed the contractor's patient care costs, as adjusted for inflation, and the total of allowances distributed shall not exceed the redistribution pool under subsection (2)(b)(i) of this section. If the funds contained in the redistribution pool exceed or are equal to the total amount by which contractors were underfunded in the patient care cost center, each contractor's allowance will be equal to the amount by which the contractor was underfunded. If the funds contained in the redistribution pool are less than the total amount by which contractors were underfunded in the patient care cost center, each contractor will receive an allowance which shall be a percentage of the amount by which the contractor was underfunded. The percentage shall be determined by dividing the amount of the pool by the total amount of underfunding.

(c) In addition, the reimbursement shall be enhanced by three million dollars for the first year of the biennium and by one million four hundred thousand dollars for the second year of the biennium. These enhancements shall be apportioned among the nursing homes proportionately based on the patient care cost center for each nursing home.

(d) For the purpose of nursing assistant certification, the department shall reimburse at a rate of thirty cents for each medicaid patient day for the first year of the biennium. This is in addition to the January 1, 1981, reimbursement rate.

(e) Effective July 1, 1982, the patient care cost center reimbursement rate shall be adjusted as follows:

(i) As used in (ii) of this subsection, patient care consultation refers to medical director, patient activities, physical therapy, speech therapy, occupational therapy, and other therapy consultation.

(ii) The department shall determine the average expense weighted by patient days for patient care consultation taken from the most recently completed cost reports.

In determining the patient care cost to be used for rate setting pursuant to subsections (2)(b)(ii) and (iii) of this section, the department shall not include any cost in excess of the average cost determined under (ii) of this subsection.

(3) Reimbursement for the food cost center shall be at the January 1, 1981, reimbursement rate, adjusted for inflation.

(4) The administration and operations cost center consists of two components:

(a) (i) For rate setting purposes for fiscal year 1982, the wages for all employees, other than nursing service personnel and administrators and assistant administrators, shall be reimbursed at the January 1, 1981, rate as adjusted for inflation.

(ii) For rate setting purposes for fiscal year 1983:

(A) If the contractor's administration and operations wage component rate for 1981 is greater than or equal to the contractor's desk reviewed 1981 administration and operations wage costs, the department shall reimburse the contractor's administration and operations wage component at the desk reviewed 1981 administration and operations wage component costs.

(B) If the contractor's administration and operations wage component rate for 1981 is less than the contractor's desk reviewed 1981 administration and operations wage costs, the department shall reimburse the contractor's administration and operations wage component at the January 1, 1981, reimbursement rate except that, after distribution of the redistribution pool to contractors underfunded in the patient care cost center pursuant to subsection (2)(b)(iii) of this section, any funds remaining will be distributed to contractors with rates below cost in proportion to the underfunding in this component. This distribution shall not exceed the total of underfunded cost in this component.

(b) Reimbursement for administration and operations, including all items not specified in subsections (2), (3), (4)(a), (5), and (6) of this section, shall not exceed the eighty-fifth percentile of the costs of all reporting facilities, not including any funds shifted pursuant to subsection (8) of this section except that the nursing home facilities may be grouped by factors, other than ownership or legal organizational characteristics, which could reasonably influence cost requirements for administration and operations. Effective July 1, 1982, the administration and operations cost center reimbursement rate shall be adjusted as follows:

(i) As used in (ii) and (iii) of this subsection, administration and operations consultation expense refers to dietary and medical record consultant fees.

(ii) The department shall determine the average expense weighted by patient days for administration and operations consultation expense taken from the most recent completed cost report.

(iii) Reimbursement for administration and operations consultation shall be the lesser of the average expense as determined under (ii) of this subsection or the individual facility's costs for administration and operations consultation expenses taken from the most recent completed cost report. This adjustment applies only to the July 1, 1982, through July 1, 1983, reimbursement period.

(5) The return on net invested equity for each facility shall be determined by utilizing medicare rules and regulations.

(6) Property cost center reimbursement for both leased and owner-operated facilities shall not exceed the predicted cost plus one standard deviation of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed by the department of social and health services, recognizing factors which may be significant, including location, age, and type of facility. Rental costs of leased facilities other than those operating as intermediate care facilities for the mentally retarded, and depreciation and interest costs of owner-operated facilities, for leases or mortgages entered into prior to July 1, 1979, shall be reimbursed to the extent they do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state medicaid

plan, and adjusted for any approved capitalized additions or replacements, except that any leased facility which has operated as an intermediate care facility for the mentally retarded prior to July 1, 1979, shall be reimbursed to the extent that the property costs exceed the upper limit of the multiple regression formula.

(7) The patient personal needs allowance limitation shall be thirty-three dollars and fifty cents.

(8) For settlement purposes only, for calendar years 1981, 1982, and 1983, a nursing home may shift among cost centers an amount not greater than twenty percent of the reimbursement rate of the cost center into which the shift is being made. Shifts may be made among the cost centers. However, shifts may not be made into the property cost center. The department shall monitor on a random basis the extent and patterns of shifting between cost centers authorized by this section. The department shall report to the legislature on its findings required by this section prior to July 15th of each year.

(9) Audits shall be conducted by the department and settlements shall be calculated by cost center only.

(10) The department may adjust reimbursement rates to reflect required increases in staffing levels and capital improvements.

(11) Any reference in this section to a January 1, 1981, reimbursement rate includes any adjustment resulting from a rate appeal and its final resolution, but shall not include any adjustment resulting from litigation on reimbursement rates prior to June 30, 1981, or the procedures by which they were established.

(12) References in this section to adjustments for inflation mean adjustments of 5.0 percent for rates effective July 1, 1981, through December 31, 1981, and 4.25 percent for rates effective January 1, 1982, through June 30, 1982. [1982 2nd ex.s. c 1 § 1; 1982 1st ex.s. c 19 § 2; 1981 2nd ex.s. c 11 § 8; 1981 1st ex.s. c 2 § 1.]

Effective date—1982 1st ex.s. c 19: See note following RCW 74.09.035.

Severability—1981 1st ex.s. c 2: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 1st ex.s. c 2 § 28.]

Effective dates—1981 1st ex.s. c 2: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Sections 1, 2, 3, and 10 through 26 of this act shall take effect on July 1, 1981. Section 4 of this act shall take effect on July 1, 1983. Sections 5 through 9 of this act shall take effect on July 1, 1984." [1981 1st ex.s. c 2 § 27.] The disposition of sections under each effective date is as follows:

(1) July 1, 1981: New sections codified as RCW 74.09.610, 74.46.850, and 18.51.145, amendments to RCW 74.09.580, 74.46.070, 74.46.901, 74.09.120, 18.51.007, 18.51.010, 18.51.050, 18.51.060, 18.51.065, 18.51.190, 18.51.200, 18.51.210, 18.51.240, 18.51.300, 18.51.310, and 35A.70.070, and the repeal of RCW 18.51.020, 18.51.055, 74.09.590 and 74.46.830.

(2) July 1, 1983: Amendments to RCW 74.46.120.

(3) July 1, 1984: Amendments to RCW 74.46.460, 74.46.490, 74.46.530, 74.46.810, and 1980 c 177 § 90 (uncodified).

Conflicts with federal requirements and this section: RCW 74.46.850.

74.09.620 Nursing homes—Billing the department, recipient eligibility. A nursing home shall not bill the department for service provided to a recipient until an award letter of eligibility of such recipient pursuant to

rules established under this chapter 74.09 RCW has been received by the nursing home. However, a nursing home may bill and shall be reimbursed for all medical care recipients referred to the nursing home by the department prior to the receipt of the award letter of eligibility or the denial of such eligibility. [1982 1st ex.s. c 19 § 5.]

Effective date—1982 1st ex.s. c 19: See note following RCW 74.09.035.

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

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

(a) Only inpatient hospital services; outpatient hospital and rural health clinic services; physicians' and clinic services; prescribed drugs, dentures, prosthetic devices, and eyeglasses; skilled nursing home services, intermediate care facility services, and intermediate care facility services for the mentally retarded; home health services; other laboratory and x-ray services; and medically necessary transportation shall be covered;

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

(c) Persons who are medically indigent and are not eligible for a federal aid program shall satisfy a deductible of not less than five hundred dollars in any twelve-month period;

(d) Medical care services provided to the medically indigent and received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished: *Provided*, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment.

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

74.09.536. [1982 1st ex.s. c 19 § 1; 1981 2nd ex.s. c 10 § 6; 1981 2nd ex.s. c 3 § 6; 1981 1st ex.s. c 6 § 22.]

Effective date—1982 1st ex.s. c 19: See note following RCW 74.09.035.

Severability—1981 2nd ex.s. c 3: See note following RCW 74.09.532.

Effective date—**Severability**—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

Ineligibility for limited casualty program due to assignment or transfer of resources: RCW 74.09.532 through 74.09.536.

74.09.850 Conflict with federal requirements. If any part of this chapter is found to conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this chapter. [1981 2nd ex.s. c 3 § 7.]

Severability—1981 2nd ex.s. c 3: See note following RCW 74.09.532.

Chapter 74.12

AID TO FAMILIES WITH DEPENDENT CHILDREN

Sections

74.12.035 Additional eligibility requirements—Maximum monthly income—Participating in strike—Students.

74.12.035 Additional eligibility requirements—Maximum monthly income—Participating in strike—Students. (1) A family or assistance unit is not eligible for aid for any month if for that month the total income of the family or assistance unit, without application of income disregards, exceeds one hundred fifty percent of the state standard of need for a family of the same composition.

(2) Participation in a strike does not constitute good cause to leave or to refuse to seek or accept employment. Assistance is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of the month, participating in a strike. An individual's need shall not be included in determining the amount of aid payable for any month to a family or assistance unit if, on the last day of the month, the individual is participating in a strike.

(3) Children over eighteen years of age and under nineteen years of age who are full-time students reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before reaching nineteen years of age are eligible to receive aid to families with dependent children: *Provided however*, That if such students do not successfully complete such program before reaching nineteen years of age, the assistance rendered under this subsection during such period shall be a debt due the state. [1981 2nd ex.s. c 10 § 3.]

State consolidated standards of need: RCW 74.04.750.

Chapter 74.13

CHILD WELFARE SERVICES

Sections

74.13.031	Duties of department—Provision of child welfare services—Establishment of children's services advisory committee.
74.13.055	Rules limiting foster care—Cooperation with private sector—Report.
74.13.080	Requirements prior to payment for child in group care.
74.13.109	Rules and regulations—Agreements for disbursements from appropriations available from the general fund, criteria.

74.13.031 Duties of department—Provision of child welfare services—Establishment of children's services advisory committee. The department shall have the duty to provide child welfare services as defined in RCW 74.13.020, and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.

(2) Develop a recruiting plan for recruiting an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, sibling groups, handicapped and emotionally disturbed, and annually submit the plan for review to the house and senate committees on social and health services. The plan shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of neglect, abuse, or abandonment of children by parents, legal custodians, or persons serving in loco parentis, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. If the investigation reveals that a crime may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report delineating the results to the house and senate committees on social and health services.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, day care, licensing of child care agencies, and services related thereto. At least one-third of the membership shall be composed of child care providers.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and RCW 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974 (P.L. No. 93-415; 42 U.S.C. 5634 et seq.; and 42 U.S.C. 5701 note as amended by P.L. 94-273, 94-503, and 95-115). [1982 c 118 § 3; 1981 c 298 § 16; 1979 ex.s. c 165 § 22; 1979 c 155 § 77; 1977 ex.s. c 291 § 22; 1975-'76 2nd ex.s. c 71 § 4; 1973 1st ex.s. c 101 § 2; 1967 c 172 § 17.]

Severability—1981 c 298: See note following RCW 13.32A.040.

Severability—1979 ex.s. c 165: See RCW 26.32.911.

Application—1979 ex.s. c 165: See RCW 26.32.915.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

Severability—1967 c 172: See note following RCW 74.15.010.

Abuse of child or adult developmentally disabled person, report, investigation: Chapter 26.44 RCW.

Licensing of agencies caring for or placing children, expectant mothers, and developmentally disabled persons: Chapter 74.15 RCW.

74.13.055 Rules limiting foster care—Cooperation with private sector—Report. The department shall adopt rules pursuant to chapter 34.04 RCW which establish goals as to the maximum number of children who will remain in foster care for a period of longer than twenty-four months. The department shall also work cooperatively with the major private child care providers to assure that a partnership plan for utilizing the resources of the public and private sector in all matters pertaining to child welfare is developed and implemented. The department shall report to the legislature, no later than January 15, 1983, on the implementation of the partnership plan. [1982 c 118 § 1.]

74.13.080 Requirements prior to payment for child in group care. The department shall not make payment for

any child in group care placement unless the group home is licensed and the department has the custody of the child and the authority to remove the child in a cooperative manner after at least seventy-two hours notice to the child care provider; such notice may be waived in emergency situations. [1982 c 118 § 2.]

74.13.109 Rules and regulations—Agreements for disbursements from appropriations available from the general fund, criteria. The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.32.115 and 74.13.100 through 74.13.145.

Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

Such agreements shall meet the following criteria:

(1) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

(2) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

(3) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support, provided that if the secretary shall find that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.32.115 and 74.13.100 through 74.13.145 the secretary may do so, subject to all the provisions of RCW 26.32.115 and 74.13.100 through 74.13.145, including annual review of the amount of such support.

(4) Any prospective parent who is to be a party to such agreement shall be a person who, while having the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child, lacks the financial means fully to care for such hard to place child. [1982 c 118 § 4; 1979 ex.s. c 67 § 8; 1971 ex.s. c 63 § 4.]

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

Chapter 74.15

AGENCIES FOR CARE OF CHILDREN, EXPECTANT MOTHERS, DEVELOPMENTALLY DISABLED

Sections

74.15.020 Definitions.

74.15.030	Powers and duties of secretary.
74.15.040	Licenses for foster-family homes required— Inspections.
74.15.050	Fire protection—Powers and duties of state fire marshal.
74.15.060	Health protection—Powers and duties of secretary of social and health services.
74.15.090	Licenses required for agencies.
74.15.100	License application, issuance, duration— Reclassification.
74.15.130	Licenses—Denial, suspension, revocation— Hearing.
74.15.150	Penalty for operating without license.
74.15.160	Continuation of existing licensing rules.

74.15.020 Definitions. For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Department" means the state department of social and health services;

(2) "Secretary" means the secretary of social and health services;

(3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or developmentally disabled persons for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or developmentally disabled persons for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or developmentally disabled persons for services rendered:

(a) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother or developmentally disabled person is placed;

(f) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036.

(4) "Agency" shall not include the following:

(a) Persons related by blood or marriage to the child, expectant mother or developmentally disabled persons in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, and/or first cousin;

(b) Persons who are legal guardians of the child, expectant mother or developmentally disabled persons;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person does not engage in such activity on a regular basis, or where parents on a mutually cooperative basis exchange care of one another's children, or persons who have the care of an exchange student in their own home;

(d) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(e) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(f) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(j) Facilities approved and certified under RCW 72.33.810;

(k) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund.

(5) "Requirement" means any rule, regulation or standard of care to be maintained by an agency. [1982 c 118 § 5; 1979 c 155 § 83; 1977 ex.s. c 80 § 71; 1967 c 172 § 2.]

Appropriation—Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

74.15.030 Powers and duties of secretary. The secretary shall have the power and it shall be his duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or

structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In investigating the character of an agency and the persons employed by or under contract to an agency, the secretary may have access to conviction records or pending charges of the agencies and its staff. The secretary shall use the information solely for the purpose of determining eligibility for a license and shall safeguard the information in the same manner as the child abuse registry established in RCW 26.44.070. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served.

(3) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(4) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(5) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(6) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with the children's services advisory committee; and

(7) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons. [1982 c 118 § 6; 1980 c 125 § 1; 1979 c 141 § 355; 1977 ex.s. c 80 § 72; 1967 c 172 § 3.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

74.15.040 Licenses for foster-family homes required—Inspections. An agency seeking to accept and serve children, developmentally disabled persons, or expectant mothers as a foster-family home shall make application for license in such form and substance as required by the department. The department shall maintain a list of applicants through which placement may be undertaken. However, agencies and the department shall not place a child, developmentally disabled person, or expectant mother in a home until the home is licensed. Foster-family homes shall be inspected prior to licensure, except that inspection by the department is not required if the foster-family home is under the supervision of a licensed agency upon certification to the department by the licensed agency that such homes meet the requirements for foster homes as adopted pursuant to chapter 74.15 RCW and RCW 74.13.031. [1982 c 118 § 7; 1979 c 141 § 356; 1967 c 172 § 4.]

74.15.050 Fire protection—Powers and duties of state fire marshal. The state fire marshal shall have the power and it shall be his duty:

(1) In consultation with the children's services advisory committee and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt recognized minimum standard requirements pertaining to each category of agency established pursuant to chapter 74.15 RCW and RCW 74.13.031, except foster-family homes and child-placing agencies, necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies, other than foster-family homes or child-placing agencies, as he deems necessary;

(3) To make a periodic review of requirements under RCW 74.15.030(6) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses hereunder, other than foster-family homes or child-placing agencies, who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department of social and health services before a license shall be issued, except that a provisional license may be issued as provided in RCW 74.15.120. [1982 c 118 § 8; 1979 c 141 § 357; 1967 c 172 § 5.]

74.15.060 Health protection—Powers and duties of secretary of social and health services. The secretary of social and health services shall have the power and it shall be his duty:

In consultation with the children's services advisory committee and with the advice and assistance of persons

representative of the various type agencies to be licensed, to develop minimum requirements pertaining to each category of agency established pursuant to chapter 74.15 RCW and RCW 74.13.031, necessary to promote the health of all persons residing therein.

The secretary or the city, county, or district health department designated by him shall have the power and the duty:

(1) To make or cause to be made such inspections and investigations of agencies as may be deemed necessary; and

(2) To issue to applicants for licenses hereunder who comply with the requirements adopted hereunder, a certificate of compliance, a copy of which shall be presented to the department before a license shall be issued, except that a provisional license may be issued as provided in RCW 74.15.120. [1982 c 118 § 9; 1970 ex.s. c 18 § 14; 1967 c 172 § 6.]

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

74.15.090 Licenses required for agencies. It shall hereafter be unlawful for any agency to receive children, expectant mothers or developmentally disabled persons for supervision or care, or arrange for the placement of such persons, unless such agency is licensed as provided in chapter 74.15 RCW. [1982 c 118 § 10; 1977 ex.s. c 80 § 73; 1967 c 172 § 9.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

74.15.100 License application, issuance, duration—Reclassification. Each agency shall make application for a license or renewal of license to the department of social and health services on forms prescribed by the department. A licensed agency having foster-family homes under its supervision may make application for a license on behalf of any such foster-family home. Upon receipt of such application, the department shall either grant or deny a license within ninety days unless the application is for licensure as a foster-family home, in which case RCW 74.15.040 shall govern. A license shall be granted if the agency meets the minimum requirements set forth in chapter 74.15 RCW and RCW 74.13.031 and the departmental requirements consistent herewith, except that a provisional license may be issued as provided in RCW 74.15.120. Licenses provided for in chapter 74.15 RCW and RCW 74.13.031 shall be issued for a period of three years. The licensee, however, shall advise the secretary of any material change in circumstances which might constitute grounds for reclassification of license as to category. [1982 c 118 § 11; 1979 c 141 § 360; 1967 c 172 § 10.]

74.15.130 Licenses—Denial, suspension, revocation—Hearing. (1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the

requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses;

(2) Whenever the secretary shall have reasonable cause to believe that grounds for denial, suspension or revocation of a license exist or that a licensee has failed to qualify for renewal of a license he shall notify the licensee in writing by certified mail, stating the grounds upon which it is proposed that the license be denied, suspended, revoked or not renewed.

Within thirty days from the receipt of notice of the grounds for denial, suspension, revocation or lack of renewal, the licensee may serve upon the secretary a written request for hearing. Service of a request for hearing shall be made by certified mail. Upon receiving a request for hearing, the secretary shall fix a date upon which the matter may be heard. If no request for hearing is made within the time specified, the license shall be deemed denied, suspended or revoked. It shall be the duty of the secretary within thirty days after the date of the hearing to notify the appellant of his decision. The secretary shall promulgate and publish rules governing the conduct of hearings.

Except as specifically provided above, the rules adopted and the hearings conducted shall be in accordance with Title 34 RCW (Administrative Procedure Act). [1982 c 118 § 12; 1979 c 141 § 362; 1967 c 172 § 13.]

74.15.150 Penalty for operating without license. Any agency operating without a license shall be guilty of a misdemeanor. This section shall not be enforceable against an agency until sixty days after the effective date of new rules, applicable to such agency, have been adopted under chapter 74.15 RCW and RCW 74.13.031. [1982 c 118 § 13; 1967 c 172 § 15.]

74.15.160 Continuation of existing licensing rules. Existing rules for licensing adopted pursuant to chapter 74.14 RCW, sections 74.14.010 through 74.14.150, chapter 26, Laws of 1959, shall remain in force and effect until new rules are adopted under chapter 74.15 RCW and RCW 74.13.031, but not thereafter. [1982 c 118 § 14; 1967 c 172 § 16.]

Chapter 74.20

SUPPORT OF DEPENDENT CHILDREN

Sections

74.20.040 Duty of department to enforce child support—Support enforcement services—Fees, establishment, collection, waiver.

74.20.040 Duty of department to enforce child support—Support enforcement services—Fees, establishment, collection, waiver. (1) Whenever the department of social and health services receives an application for public assistance on behalf of a child, the

department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

The department shall collect data from cases of support under RCW 74.20.270 where there is no court-ordered support obligation. Such data shall include: Income characteristics of those obligated to pay support, obligation established, and resulting payments. The department shall report its findings to the appropriate legislative committees by January 1, 1983. The department shall reconsider its administrative standards under RCW 74.20.270 in light of relevant data and shall, to the extent feasible without substantial impact on aid to families with dependent children, bring those standards into conformity with payment standards based on actual experience.

(2) The secretary may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take action as he deems appropriate to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Applications accepted under this section may be conditioned upon the payment of a fee as required through regulation issued by the secretary. Action may be taken under the provisions of chapter 74.20 RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations. The secretary may establish by regulation, such reasonable standards as he deems necessary to limit applications for support enforcement services. Said standards shall take into account the income, property, or other resources already available to support said person for whom a support obligation exists.

(3) The secretary may charge a fee to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be agreed on in writing with the custodian or guardian of the person for whom a support obligation is owed, or that person if no custodian or guardian exists and shall be limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The secretary shall by regulation establish reasonable fees for support enforcement services and said schedule of fees shall be made available to all applicants for support enforcement services. The secretary may, on showing of necessity, waive or defer any such fee.

(4) The secretary may impose a fee on the individual who owes a child support or spousal support obligation with respect to all such child and spousal support obligations for which collection is made on behalf of persons who are not recipients of public assistance.

Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to

the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(5) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed. [1982 c 201 § 20; 1973 1st ex.s. c 183 § 1; 1971 ex.s. c 213 § 1; 1963 c 206 § 3; 1959 c 322 § 5.]

Chapter 74.20A

SUPPORT OF DEPENDENT CHILDREN— ALTERNATIVE METHOD—1971 ACT

Sections

- 74.20A.055 Notice and finding of financial responsibility of responsible parent—Service—Hearing—Decisions—"Need" defined.
- 74.20A.090 Certain amount of earnings exempt from lien or order—"Earnings" and "disposable earnings" defined.

74.20A.055 Notice and finding of financial responsibility of responsible parent—Service—Hearing—Decisions—"Need" defined. (1) The secretary may, in the absence of a superior court order, serve on the responsible parent or parents a notice and finding of financial responsibility requiring a responsible parent or parents to appear and show cause in a hearing held by the department why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26.16-.205, including periodic payments to be made in the future for such period of time as the child or children of said responsible parent or parents are in need. Said hearing shall be held pursuant to RCW 74.20A.055, chapter 34.04 RCW, and the rules and regulations of the department, which shall provide for a fair hearing.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: *Provided*, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. Any responsible parent who objects to all or any part of the notice and finding shall have the right for not more than twenty days from the date of service to request in writing a

hearing, which request shall be served upon the department by registered or certified mail or personally. If no such request is made, the notice and finding of responsibility shall become final and the debt created therein shall be subject to collection action as authorized under this chapter. If a timely request is made, the execution of notice and finding of responsibility shall be stayed pending the decision on such hearing. If no timely written request for a hearing has previously been made, the responsible parent may petition the secretary or the secretary's designee at any time for a hearing as provided for in this section upon a showing of good cause for the failure to make a timely request for hearing. The filing of the petition for a hearing after the twenty-day period shall not affect any collection action previously taken under this chapter. The granting of a request for the hearing shall operate as a stay on any future collection action, pending the final decision of the secretary or the secretary's designee on the hearing. Moneys withheld as a result of collection action in effect at the time of the granting of the request for the hearing shall be delivered to the department and shall be held in trust by the department pending the final order of the secretary or during the pendency of any appeal to the courts made under chapter 34.04 RCW. The department may petition the administrative law judge to set temporary current and future support to be paid beginning with the month in which the petition for an untimely hearing is granted. The administrative law judge shall order payment of temporary current and future support if appropriate in an amount determined pursuant to the scale of suggested minimum contributions adopted under RCW 74.20.270. In the event the responsible parent does not make payment of the temporary current and future support as ordered by the hearing examiner, the department may take collection action pursuant to chapter 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the order. Temporary current and future support paid, or collected, during the pendency of the hearing or appeal shall be disbursed to the custodial parent or as otherwise appropriate when received by the department. If the final decision of the department, or of the courts on appeal, is that the department has collected from the responsible parent other than temporary current or future support, an amount greater than such parent's past support debt, the department shall promptly refund any such excess amount to such parent.

(3) Hearings may be held in the county of residence or other place convenient to the responsible parent. Any such hearing shall be a "contested case" as defined in RCW 34.04.010. The notice and finding of financial responsibility shall set forth the amount the department has determined the responsible parent owes, the support debt accrued and/or accruing, and periodic payments to be made in the future for such period of time as the child or children of the responsible parent are in need, all computable on the basis of the need alleged. The notice and finding shall also include a statement of the name of the recipient or custodian and the name of the child or children for whom need is alleged; and/or a

statement of the amount of periodic future support payments as to which financial responsibility is alleged.

(4) The notice and finding shall include a statement that the responsible parent may object to all or any part of the notice and finding, and request a hearing to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future.

The notice and finding shall include a statement that, if the responsible parent fails in timely fashion to request a hearing, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt shall be subject to collection action; a statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.

(5) If a hearing is requested, it shall be promptly scheduled, in no more than thirty days. The hearing, including a hearing on prospective modification, shall be conducted by an administrative law judge appointed under chapter 34.12 RCW.

After evidence has been presented at hearings conducted by the administrative law judge, the administrative law judge shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The administrative law judge shall file the original of the initial decision and order, signed by the administrative law judge, with the secretary or the secretary's designee. Copies of the initial decision and order shall be mailed by the administrative law judge to the department and to the appellant by certified mail to the last known address of each party. Within thirty days of filing, either the appellant or the department may file with the secretary or the secretary's designee a written petition for review of the initial decision and order. The petition for review shall set forth in detail the basis for the requested review and shall be mailed by the petitioning party to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any of the following causes materially affecting the substantial rights of the petitioner:

(a) Irregularity in the proceedings of the administrative law judge or adverse party, or any order of the administrative law judge, or abuse of discretion, by which the moving party was prevented from having a fair hearing;

(b) Misconduct of the prevailing party;

(c) Accident or surprise which ordinary prudence could not have guarded against;

(d) Newly discovered evidence, material for the party making the application, which the party could not with reasonable diligence have discovered and produced at the hearing;

(e) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law;

(f) Error in mathematical computation;

(g) Error in law occurring at the hearing and objected to at the time by the party making the application;

(h) That the moving party is unable to perform according to the terms of the order without further clarification;

(i) That substantial justice has not been done;

(j) Fraud or misstatement of facts by any witness, which materially affects the debt;

(k) Clerical mistakes in the decision arising from oversight or omission; or

(l) That the decision and order entered because the responsible parent failed to appear at the hearing should be vacated and the matter be remanded for a hearing upon showing of the grounds enumerated in RCW 4.72-.010 or superior court civil rule 60.

In the event no petition for review is made as provided in this subsection by any party, the initial decision and order of the administrative law judge is final as of the date of filing and becomes the decision and order of the secretary. No appeal may be taken therefrom to the courts and the debt created is subject to collection action as authorized by this chapter.

After the receipt of a petition for review, the secretary or the secretary's designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof, and such additional evidence and argument as the secretary or the secretary's designee may in his or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the administrative law judge for additional evidence or argument. The secretary or the secretary's designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of the denial and all parties shall forthwith be notified, in writing, of the denial, by certified mail to the last known address of the parties. Unless the petition is denied, the secretary or the secretary's designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings of fact and conclusions of law as to each contested issue of fact and law. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The decision and order shall authorize collection action, as appropriate, under this chapter.

(6) The administrative law judge in his or her initial decision, or the secretary or the secretary's designee in review of the initial decision, shall determine the past liability and responsibility, if any, of the alleged responsible parent and shall also determine the amount of periodic payments to be made in the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. In making these determinations, the administrative law

judge, and the secretary or the secretary's designee, shall include in his or her considerations:

(a) All earnings and income resources of the responsible parent, including real and personal property;

(b) The earnings potential of the responsible parent;

(c) The reasonable necessities of the responsible parent;

(d) The ability of the responsible parent to borrow;

(e) The needs of the child for whom the support is sought;

(f) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;

(g) The existence of other dependents; and

(h) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children of the responsible parent.

If the responsible parent fails to appear at the hearing, upon a showing of valid service, the administrative law judge shall enter an initial decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. Within thirty days of entry of said decision and order, the responsible parent may petition the secretary or the secretary's designee to vacate said decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

(7) The final decision entered pursuant to this section shall be entered as a decision and order and shall limit the support debt to the amounts stated in said decision: *Provided*, That said decision establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the hearing order or decision: *Provided further*, That in the absence of a superior court order, either the responsible parent or the department may petition the secretary or his designee for issuance of an order to appear and show cause based on a showing of good cause and material change of circumstances, to require the other party to appear and show cause why the decision previously entered should not be prospectively modified. Said order to appear and show cause together with a copy of the petition and affidavit upon which the order is based shall be served in the manner of a summons in a civil action or by certified mail, return receipt requested, on the other party by the petitioning party. A hearing shall be set not less than fifteen nor more than thirty days from the date of service, unless extended for good cause shown. Prospective modification may be ordered, but only upon a showing of good cause and material change of circumstances. The decision and order for prospective modification entered by the administrative law judge shall be an initial decision subject to review by the secretary or the secretary's designee as provided for in this section.

(8) The administrative law judge, in making the initial decision and the secretary or the secretary's designee in the final decision determining liability and/or future periodic support payments, shall consider the standards

promulgated pursuant to RCW 74.20.270 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent.

(9) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by the administrative law judge, or the secretary or secretary's designee.

(10) "Need" as used in this section shall mean the necessary costs of food, clothing, shelter, and medical attendance for the support of a dependent child or children. The amount determined by reference to the schedule of suggested minimum contributions adopted under RCW 74.20.270, based on the earnings, resources, and property of the alleged responsible parent, shall be a rebuttable presumption of the alleged responsible parent's ability to pay and the need of the family: *Provided*, That such responsible parent shall be presumed to have no ability to pay child support under this chapter from any income received from aid to families with dependent children, supplemental security income, or continuing general assistance. [1982 c 189 § 8; 1979 ex.s. c 171 § 12; 1973 1st ex.s. c 183 § 25.]

Effective date—1982 c 189: See note following RCW 34.12.020.

Severability—1979 ex.s. c 171: See note following RCW 74.20.300.

74.20A.090 Certain amount of earnings exempt from lien or order—"Earnings" and "disposable earnings" defined. Whenever a support lien or order to withhold and deliver is served upon any person, firm, corporation, association, political subdivision, or department of the state asserting a support debt against earnings and there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state, any such earnings, RCW 7.33.280 shall not apply, but fifty percent of the disposable earnings shall be exempt and may be disbursed to the debtor whether such earnings are paid, or to be paid weekly, monthly, or at other intervals and whether there be due the debtor earnings for one week or for a longer period. The lien or order to withhold and deliver shall continue to operate and require said person, firm, corporation, association, political subdivision, or department of the state to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until the entire amount of the support debt stated in the lien or order to withhold and deliver has been withheld. As used in this chapter, the term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making such payments exempt from garnishment, attachment, or other process to satisfy support obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050 or Title 74 RCW. Earnings shall specifically include all gain derived from capital, from labor, or from both

combined, not including profit gained through sale or conversion of capital assets. The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount required by law to be withheld. [1982 1st ex.s. c 18 § 12. Prior: 1982 c 201 § 21; 1979 ex.s. c 171 § 10; 1973 1st ex.s. c 183 § 10; 1971 ex.s. c 164 § 9.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

Severability—1979 ex.s. c 171: See note following RCW 74.20.300.

Chapter 74.42

NURSING HOMES—RESIDENT CARE, OPERATING STANDARDS

Sections

74.42.020	Minimum standards.
74.42.230	Physician or authorized practitioner to prescribe medication.
74.42.590	Repealed.
74.42.600	Department inspections—Notice of noncompliance—Penalties.

74.42.020 Minimum standards. The standards in RCW 74.42.030 through 74.42.570 are the minimum standards for facilities licensed under chapter 18.51 RCW: *Provided, however,* That RCW 74.42.040, 74.42.140 through 74.42.280, 74.42.300, 74.42.360, 74.42.370, 74.42.380, 74.42.420(2), (4), (5), (6) and (7), 74.42.430(3), 74.42.450(2) and (3), 74.42.520, 74.42.530, 74.42.540, 74.42.570, and 74.42.580 shall not apply to Christian Science sanatoria facilities operated and listed or certified by The First Church of Christ, Scientist, in Boston, Massachusetts. [1982 c 120 § 1; 1980 c 184 § 6; 1979 ex.s. c 211 § 2.]

74.42.230 Physician or authorized practitioner to prescribe medication. (1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall be limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter 18.88 RCW when authorized by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, or a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice. [1982 c 120 § 2; 1979 ex.s. c 211 § 23.]

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

74.42.600 Department inspections—Notice of noncompliance—Penalties. (1) In addition to the inspection required by chapter 18.51 RCW, the department shall inspect the facility for compliance with resident rights and direct care standards of this chapter. The department may inspect any and all other provisions randomly, by exception profiles, or during complaint investigations.

(2) If the facility has not complied with any of the standards in RCW 74.42.010 through 74.42.570, the department shall notify the facility in writing that the facility is in noncompliance and describe the reasons for the facility's noncompliance. The notice shall inform the facility that, except for life-threatening situations or situations which substantially limit the provider's capacity to render adequate care which may be for a shorter period of time, the facility shall comply within a specified time, not to exceed sixty days from the date the plan of correction is approved by the department. The penalties in RCW 74.42.580 may be imposed if, upon inspection after the specified period, the department determines that the facility has not complied. [1982 c 120 § 3; 1980 c 184 § 17; 1979 ex.s. c 211 § 60.]

Chapter 74.46

NURSING HOME AUDITING AND COST REIMBURSEMENT ACT OF 1980

Sections

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

(1) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Ancillary care" means those services required by the individual, comprehensive plan of care provided by qualified therapists.

(3) "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(4) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall

not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(5) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(6) "Bad debts" means amounts considered to be uncollectable from accounts and notes receivable.

(7) "Beds" means the number of set-up beds in the facility, not to exceed the number of licensed beds.

(8) "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to subparagraph (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

except that, any person who acquires an ownership interest or power specified in subparagraphs (i), (ii), or (iii) of this subparagraph (c) with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of

changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subparagraph (b) of this subsection; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(9) "Capitalization" means the recording of an expenditure as an asset.

(10) "Contractor" means an entity which contracts with the department to provide services to medical care recipients in a facility and which entity is responsible for operational decisions.

(11) "Department" means the department of social and health services (DSHS) and its employees.

(12) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(13) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct nursing and ancillary care of medical care recipients.

(14) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(15) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(16) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(17) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

(18) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(19) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB).

(20) "Generally accepted auditing standards" means auditing standards approved by the American institute of certified public accountants (AICPA).

(21) "Goodwill" means the excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired.

(22) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(23) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

(24) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

(25) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

(26) "Medical care recipient" or "recipient" means an individual determined eligible by the department for the services provided in chapter 74.09 RCW.

(27) "Net book value" means the historical cost of an asset less accumulated depreciation.

(28) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the allowable costs of each contractor for the previous calendar year.

(29) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(30) "Owner" means a sole proprietor, general or limited partners, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

(31) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(32) "Patient day" or "client day" means a calendar day of care which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist.

(33) "Professionally designated real estate appraiser" means an individual who is regularly engaged in the business of providing real estate valuation services for a fee, and who is deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examinations on valuation practice and theory, and who by virtue of membership in such organization is required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

(34) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience as specified by the department;

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional who is either a qualified therapist or a therapist approved by the department who has had specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker who is a graduate of a school of social work;

(f) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; and

(h) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training.

(35) "Questioned costs" means those costs which have been determined in accordance with generally accepted accounting principles but which may constitute disallowed costs or departures from the provisions of this chapter or rules and regulations adopted by the department.

(36) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

(37) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

(38) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

(39) "Secretary" means the secretary of the department of social and health services.

(40) "Title XIX" or "Medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended. [1982 c 117 § 1; 1980 c 177 § 2.]

Effective dates—1980 c 177: See RCW 74.46.901.

Title 75

FOOD FISH AND SHELLFISH

Chapters

75.12	Taking of food fish, shellfish.
75.16	Conservation and propagation.
75.20	Restrictions as to dams, ditches, and other uses of waters and waterways.
75.28	Licenses.

Chapter 75.12

TAKING OF FOOD FISH, SHELLFISH

Sections

75.12.090	Unlawfully taking food fish or shellfish—Stealing or molesting fishing gear—Penalty.
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- 75.12.320 Participation of non-Indians in Indian fishery forbidden—Exceptions, definitions, penalty.
 75.12.400 Unlawful to lift or set shellfish pots in Hood Canal—Exceptions.

75.12.090 Unlawfully taking food fish or shellfish—Stealing or molesting fishing gear—Penalty.

(1) It is unlawful to take food fish or shellfish from a building, vehicle, vessel, live box, container, trap, seine, line, or net thereby depriving the rightful owner of the food fish or shellfish.

(2) It is unlawful to steal or molest gear used to take food fish or shellfish for either commercial purposes or personal use.

(3) Any person violating this section is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred and fifty dollars. [1982 c 14 § 1; 1955 c 12 § 75.12.090. Prior: 1949 c 112 § 33; Rem. Supp. 1949 § 5780–307.]

75.12.320 Participation of non-Indians in Indian fishery forbidden—Exceptions, definitions, penalty.

(1) Except as provided in subsection (2) of this section, it is unlawful for a person who is not a treaty Indian fisherman to participate in the taking of food fish or shellfish in a treaty Indian fishery, or to be on board a vessel, or associated equipment, operating in a treaty Indian fishery.

(2) (a) The spouse, forebears, siblings, children, and grandchildren of a treaty Indian fisherman may assist the fisherman in exercising treaty Indian fishing rights when the treaty Indian fisherman is present at the fishing site.

(b) Other treaty Indian fishermen with off-reservation treaty fishing rights in the same usual and accustomed places, whether or not the fishermen are members of the same tribe or another tribe, may assist a treaty Indian fisherman in exercising treaty Indian fishing rights when the treaty Indian fisherman is present at the fishing site.

(c) Biologists approved by the department may be on board a vessel operating in a treaty Indian fishery.

(3) For the purposes of this section:

(a) "Treaty Indian fisherman" means a person who may exercise treaty Indian fishing rights as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and post-trial orders of those courts;

(b) "Treaty Indian fishery" means a fishery open to only treaty Indian fishermen by tribal or federal regulation;

(c) "To participate" and its derivatives mean an effort to operate a vessel or fishing equipment, provide immediate supervision in the operation of a vessel or fishing equipment, or otherwise assist in the fishing operation, or to claim possession of a share of the catch.

(4) A violation of this section involving salmon constitutes illegal fishing and is subject to the sanctions provided under RCW 75.28.384. [1982 c 197 § 1.]

75.12.400 Unlawful to lift or set shellfish pots in Hood Canal—Exceptions. It is unlawful to lift or set shellfish pots from the waters of Hood Canal south of a line between the abutments of the Hood Canal bridge from one hour after sunset until one hour before sunrise. This section does not apply to the harvesting of clams. [1982 c 14 § 2.]

Chapter 75.16

CONSERVATION AND PROPAGATION

Sections

75.16.075 Fish restoration and management projects—Federal act.

75.16.075 Fish restoration and management projects—Federal act. See RCW 77.12.440.

Chapter 75.20

RESTRICTIONS AS TO DAMS, DITCHES, AND OTHER USES OF WATERS AND WATERWAYS

Sections

75.20.300 Expediting flood control dredging operations in rivers affected by Mt. St. Helens eruption—Fish resource preservation—Expiration of section.

75.20.300 Expediting flood control dredging operations in rivers affected by Mt. St. Helens eruption—Fish resource preservation—Expiration of section. (1)

The legislature intends to expedite flood-control dredging operations in those rivers affected by the May 1980 eruption of Mt. St. Helens, while continuing to protect the fish resources of these rivers.

(2) The director of fisheries and director of game shall process hydraulic project applications submitted under RCW 75.20.100 within five working days of receipt of the application. This requirement is only applicable to flood control and dredging projects located in the Toutle river, at the Cowlitz river from River Mile 22 to the confluence with the Columbia and the volcano and affected tributaries to the Cowlitz and Toutle river and volcano affected areas of the Columbia river.

(3) The mandatory emergency provisions of RCW 75.20.100 for the purposes of *this act may be initiated by the county legislative authority: *Provided*, That the project is necessary to provide protection from flood hazards to human life and/or to reduce or prevent flood damages or destruction of property, including:

(a) Flood fight measures necessary to provide protection during a flood event; or

(b) Measures necessary to reduce or eliminate a potential flood threat when other alternative measures are not available or cannot be completed prior to the expected flood threat season; or

(c) Measures which must be initiated and completed within an immediate period of time and for which processing of the request through normal methods would

cause a delay to the project and such delay would significantly increase the potential for damages from a flood event.

This section expires on June 30, 1984. [1982 c 7 § 8.]

*Reviser's note: For "this act," see note following RCW 43.01.200.

Severability—1982 c 7: See note following RCW 36.01.150.

Chapter 75.28 LICENSES

Sections

75.28.275 Licenses to take crab—Requirements, limitations.

75.28.275 Licenses to take crab—Requirements, limitations. (1) It is unlawful to take crab in the Puget Sound licensing district without first obtaining a Puget Sound crab license endorsement.

(2) Commercial crab licenses issued under RCW 75.28.274 endorsed for the Puget Sound licensing district may be issued only to vessels:

(a) Which held a commercial crab license endorsed for the Puget Sound licensing district during the previous year or had transferred to the vessel such a license; and

(b) From which one thousand pounds of crab were caught and landed in this state during the previous two-year period ending on December 31st of an odd-numbered year, as documented by a valid shellfish receiving ticket. This requirement shall apply to licenses for which application is made after January 1, 1984.

Where the failure to obtain the license during the previous year was the result of a license suspension or revocation by the department, the vessel may qualify for a license by establishing that the vessel held such a license during the last year in which it was eligible.

(3) The director may reduce or waive the landing requirement established under subsection (2)(b) of this section upon the recommendation of a board of review established under RCW 75.28.276. The board of review may recommend a reduction or waiver of the landing requirement in individual cases if, in the board's judgment, extenuating circumstances prevent achievement of the landing requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."

(4) The issuance of commercial crab licenses for areas other than the Puget Sound licensing district is not restricted by this section.

(5) License endorsements issued under this section are not transferable from one owner to another owner, except from parent to child or upon the death of the owner, before July 1, 1986. This restriction applies to all changes in the vessel owner's name on the license, including (a) changes during the license year, and (b) changes during the license renewal process between years. This restriction does not prevent changes in vessel operator or transfers between vessels when the vessel owner remains unchanged. Upon request of a vessel

owner, the director may issue a temporary permit to allow the vessel owner to use the license endorsement on a leased or rented vessel.

(6) If less than two hundred vessels are eligible for Puget Sound license endorsements, the director may accept applications for new endorsements. The director shall determine by random selection the successful applicants for the additional endorsements. The number of additional endorsements issued shall be sufficient to maintain two hundred vessels in the Puget Sound crab fishery. The director shall adopt rules governing the application, selection, and issuance procedures for new Puget Sound crab license endorsements, based upon recommendations of a board of review established under RCW 75.28.276. [1982 c 157 § 1; 1980 c 133 § 4.]

Severability—Legislative findings—1980 c 133: See notes following RCW 75.28.270.

Title 76

FORESTS AND FOREST PRODUCTS

Chapters

76.04 Forest protection.

76.09 Forest practices.

76.12 Reforestation.

76.40 Log patrols.

Chapter 76.04

FOREST PROTECTION

Sections

76.04.360 Forest patrol assessments—Lien—Supervisor's bond.

76.04.397 Repealed.

76.04.515 Landowner contingency forest fire suppression account.

76.04.360 Forest patrol assessments—Lien—Supervisor's bond. If any owner of forest land neglects or fails to provide adequate fire protection therefor as required by RCW 76.04.350, the department shall provide such protection therefor, notwithstanding the provisions of RCW 76.04.515, at a cost to the owner of not to exceed twenty-one cents an acre per year on lands west of the summit of the Cascade mountains and seventeen cents an acre per year on lands east of the summit of the Cascade mountains: *Provided*, That the cost for any ownership parcel containing less than thirty acres shall not be less than five dollars and ten cents east of the Cascade mountains and six dollars and thirty cents west of the Cascade mountains: *Provided further*, That an owner of two or more parcels per county, each containing less than thirty acres, may obtain a certified list of such parcels from the county assessor and file it by January 1 each year with the department, which will collect from that owner one minimum assessment for all parcels. Should the total acreage of the parcels filed exceed thirty acres, the per-acre rate shall apply. If payment is not received within ten days of filing, the owner shall not be entitled to the exception contained in this proviso for

that tax year and the assessments shall be collected as otherwise provided.

For the purpose of chapter 76.04 RCW, the supervisor may divide the forest lands of the state, or any part thereof, into districts, for patrol and assessment purposes, may classify lands according to the character of timber prevailing, and the fire hazard existing, and place unprotected lands under the administration of the proper district. Such cost must be justified by a showing of budgets on demand of twenty-five owners of forest land in the county concerned at public hearing. Any amounts paid or contracted to be paid by the supervisor of the department of natural resources for this purpose from any funds at his disposal shall be a lien upon the property patrolled and protected, and unless reimbursed by the owner within ten days after October 1st of the year in which they were incurred, on which date the supervisor of the department of natural resources shall be prepared to make statement thereof upon request to any forest owner whose own protection has not been previously approved by him as adequate, shall be reported by the supervisor of the department of natural resources to the assessor of the county in which the property is situated who shall extend the amounts upon the tax rolls covering the property, or the county assessor shall upon authorization from the supervisor of the department of natural resources levy the forest patrol assessment against the amounts of unimproved land as shown in each ownership on the county assessor's records and the assessor may then segregate on his records to provide that the improved land and improvements thereon carry the millage levy designed to support the rural fire protection districts as provided for in chapter 52.04 RCW.

The amounts assessed shall be collected at the time, in the same manner, by the same procedure, and with the same penalties attached that general state and county taxes on the same property are collected, except that errors in assessments may be corrected at any time by the supervisor of the department of natural resources certifying them to the treasurer of the county in which the land involved is situated. Assessments shall be known and designated as assessments of the year in which the amounts became reimbursable. Upon the collection of such assessments the county treasurer shall transmit them to the supervisor of the department of natural resources to be applied against expenses incurred in carrying out the provisions of this section, including necessary and reasonable administrative costs incurred by the department in the enforcement of these provisions. He may also expend any sums collected from owners of forest lands or received from any other source for necessary administrative costs in connection with the enforcement of RCW 76.04.370.

When land against which forest patrol assessments are outstanding is acquired for delinquent taxes and sold at public auction, the state shall have a prior lien on the proceeds of sale over and above the amount necessary to satisfy the county's delinquent tax judgment, and the county treasurer in case the proceeds of sale exceed the amount of the delinquent tax judgment shall forthwith

remit to the supervisor of the department of natural resources the amount of the outstanding patrol assessments.

All public bodies owning or administering forest lands shall pay the forest patrol assessments provided in this section and the special forest fire suppression account assessments under RCW 76.04.515. The forest patrol assessments and special forest fire suppression account assessments shall be payable by public bodies from any available funds within thirty days following receipt of the written notice from the department which is given after October 1st of the year in which the protection was provided. Unpaid assessments shall not be a lien against the publicly owned land but shall constitute a debt by the public body to the department and shall be subject to interest charges in the same amount as other unpaid forest patrol assessments.

A public body, having failed to previously pay forest patrol assessments required of it by this section, which fails to suppress a fire on or originating from forest lands owned or administered by it shall be liable for the costs of suppression incurred by the department or its agent and shall not be entitled to reimbursement of any costs incurred by the public body in the suppression activities.

The supervisor of the department of natural resources shall furnish the surety company bond under RCW 43.30.170(6), conditioned for the faithful performance of his duties and for a faithful accounting for all sums received and expended thereunder, which bond shall be approved by the attorney general. [1982 1st ex.s. c 55 § 1; 1981 c 171 § 1; 1977 ex.s. c 102 § 1. Prior: 1973 1st ex.s. c 195 § 87; 1973 1st ex.s. c 182 § 1; 1971 ex.s. c 207 § 14; 1959 c 123 § 1; 1955 c 142 § 14; 1951 c 58 § 8; 1925 ex.s. c 43 § 6; 1923 c 184 § 10; 1921 c 64 § 1; 1917 c 105 § 2; RRS § 5805.]

Effective date—Increased assessments payable in 1982 and thereafter—1981 c 171: "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, shall take effect immediately, and the assessments provided for in section 1 of this amendatory act shall be payable in 1982 and thereafter." [1981 c 171 § 2.] This act was signed by the governor and filed with the secretary of state on May 14, 1981, and "section 1 of this amendatory act" refers to the amendments to RCW 76.04.360.

Construction—1971 ex.s. c 207: See note following RCW 76.04.010.

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

76.04.515 Landowner contingency forest fire suppression account. There is created a landowner contingency forest fire suppression account which shall be a separate account in the general fund. This account shall be for the purpose of paying emergency fire costs incurred or approved by the department in the suppression of forest fires. When a determination is made that the fire was started by other than a participating landowner operation, moneys expended from this account in the suppression of such fire shall be recovered from such general fund appropriations as may be available for emergency fire suppression costs. Moneys spent from

Chapter 76.09
FOREST PRACTICES

Sections	
76.09.070	Reforestation—Requirements—Procedures— Notification on sale or transfer.

this account shall be by appropriation. The department shall transmit to the state treasurer for deposit in the landowner contingency forest fire suppression account any moneys paid out of said account which are later recovered, less reasonable costs of recovery, which moneys may be expended for purposes set forth herein during the current biennium, without reappropriation.

This account shall be established and renewed by a special forest fire suppression account assessment paid by participating forest landowners at rates to be established by the department, but not to exceed ten cents per acre per year for such period of years as may be necessary to establish and thereafter reestablish a balance in said account of two million dollars: *Provided*, That the department may establish a minimum assessment for ownership parcels containing less than thirty acres. The maximum assessment for these parcels shall not exceed the fees levied on a thirty acre parcel. The assessments with respect to forest lands in western and eastern Washington may differ to equitably distribute the assessment based on emergency fire suppression cost experience necessitated by participating landowner operations. Amounts assessed for this account shall be a lien upon the forest lands with respect to which the assessment is made, and may be collected as directed by the department in the same manner as forest patrol assessments. This account shall be held by the state treasurer who is authorized to invest so much of said account as is not necessary to meet current needs. Any interest earned on moneys from said account shall be deposited in and remain a part of the account, and shall be computed as part of the same in determining the balance thereof. Interfund loans to and from this account are authorized at the then current rate of interest as determined by the state treasurer, provided that the effect of the loan is considered for purposes of determining the assessments. Payment of emergency costs from this account shall in no way restrict the right of the department to recover costs pursuant to RCW 76.04.390 as now or hereafter amended, or other laws.

When the department determines that a forest fire was started in the course of or as a result of a participating landowner operation, it shall notify the forest fire advisory board of such determination. Such determination shall be final, unless, within ninety days of such notification, the forest fire advisory board or any interested party, serves a request for a hearing before the department. Such hearing shall constitute a contested case under chapter 34.04 RCW and any appeal therefrom shall be to the superior court of Thurston county. [1982 1st ex.s. c 55 § 2; 1981 c 28 § 1; 1979 ex.s. c 67 § 11; 1973 1st ex.s. c 24 § 4; 1971 ex.s. c 207 § 8.]

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

Construction—1971 ex.s. c 207: See note following RCW 76.04.010.

76.09.070 Reforestation—Requirements—Procedures—Notification on sale or transfer. 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.

Satisfactory reforestation is the obligation of the owner of the land as defined by forest practices regulations, except the owner of perpetual rights to cut timber owned separately from the land is responsible for satisfactory reforestation. The reforestation obligation shall become the obligation of a new owner if the land or perpetual timber rights are sold or otherwise transferred.

Prior to the sale or transfer of land or perpetual rights subject to a reforestation obligation, the seller shall notify the buyer of the existence and nature of the obligation and the buyer shall sign a notice of reforestation obligation indicating the buyer's knowledge thereof. The notice shall be on a form prepared by the department and shall be sent to the department by the seller at the time of sale or transfer of the land or perpetual timber rights. If the seller fails to notify the buyer about the reforestation obligation, the seller shall pay the buyer's costs related to reforestation, including all legal costs which include reasonable attorneys' fees, incurred by the buyer in enforcing the reforestation obligation against the seller. Failure by the seller to send the required notice to the department at the time of sale shall be prima facie evidence, in an action by the buyer against the seller for costs related to reforestation, that the seller did not notify the buyer of the reforestation obligation prior to sale.

The forest practices regulations may provide alternatives to or limitations on the applicability of reforestation requirements with respect to forest lands being converted in whole or in part to another use which is compatible with timber growing. The forest practices regulations may identify classifications and/or areas of forest land that have the likelihood of future conversion to urban development within a ten year period. The reforestation requirements may be modified or eliminated on such lands: *Provided*, That such identification and/or such conversion to urban development must be consistent with any local or regional land use plans or ordinances.

[1982 c 173 § 1; 1975 1st ex.s. c 200 § 4; 1974 ex.s. c 137 § 7.]

Effective date—1982 c 173: "This act shall take effect July 1, 1982." [1982 c 173 § 2.]

Chapter 76.12 REFORESTATION

Sections

76.12.030 Deed of county land to board—Disposition of proceeds.

76.12.030 Deed of county land to board—Disposition of proceeds. If any land acquired by a county through foreclosure of tax liens, or otherwise, comes within the classification of land described in RCW 76.12.020 and can be used as state forest land and if the board deems such land necessary for the purposes of this chapter, the county shall, upon demand by the board, deed such land to the board and the land shall become a part of the state forest lands, and upon such deed being made the commissioner of public lands shall be notified and enter and note it upon the records of his office.

Such land shall be held in trust and administered and protected by the board as other state forest lands. Any moneys derived from the lease of such land or from the sale of forest products, oils, gases, coal, minerals, or fossils therefrom, shall be distributed as follows:

(1) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund: *Provided*, That for moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204 prior to December 1, 1981, and not distributed under this section prior to December 1, 1981, an amount not to exceed fifty percent, which rate of percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund.

(2) Any balance remaining shall be paid to the county in which the land is located to be paid, distributed, and prorated, except as hereinafter provided, to the various funds in the same manner as general taxes are paid and distributed during the year of payment: *Provided*, That any such balance remaining paid to a county of the seventh, eighth, or ninth class shall first be applied to the reduction of any indebtedness existing in the current expense fund of such county during the year of payment. [1981 2nd ex.s. c 4 § 4; 1971 ex.s. c 224 § 1; 1969 c 110 § 1; 1957 c 167 § 1; 1951 c 91 § 1; 1935 c 126 § 1; 1927 c 288 § 3, part (adding a new section to 1923 c 154 § 3b); RRS § 5812-36.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

Chapter 76.40 LOG PATROLS

Sections

76.40.060 Presumption as to branded logs.

76.40.060 Presumption as to branded logs. Branded and marked logs, boom sticks and boom chains shall be presumed to be the property of the person in whose name the brand or catch brand thereon imprinted is registered with the department of natural resources. [1982 c 35 § 199; 1947 c 116 § 6; Rem. Supp. 1947 § 8415-15.]

Intent—**Severability**—**Effective dates**—**Application**—1982 c 35: See notes following RCW 43.07.160.

Title 77 GAME AND GAME FISH

Chapters

77.12 Powers and duties of commission.

77.16 Prohibited acts and penalties.

77.20 Beaver.

77.21 Penalties—Proceedings.

Expediting flood control dredging operations in rivers affected by Mt. St. Helens eruption—Fish resource preservation—Expiration of section: RCW 75.20.300.

Chapter 77.12 POWERS AND DUTIES OF COMMISSION

Sections

77.12.095 Inspections of commercial enterprises involved with wildlife.

77.12.323 Special wildlife account—Investments.

77.12.440 Fish restoration and management projects—Federal act.

77.12.610 Wildlife check stations—Purpose.

77.12.620 Wildlife check stations—Stopping for inspection.

77.12.630 Wildlife check stations—Other inspections, powers.

77.12.095 Inspections of commercial enterprises involved with wildlife. Wildlife agents may inspect without warrant at reasonable times and in a reasonable manner the premises, wildlife, and records of any commercial enterprise operating under the authority of a license or permit issued by the department or any commercial business that sells, stores, transports, or possesses wildlife. [1982 c 152 § 1; 1980 c 78 § 22.]

Effective date—**Intent, construction**—**Savings**—**Severability**—1980 c 78: See notes following RCW 77.04.010.

77.12.323 Special wildlife account—Investments.

(1) There is established in the state game fund a special wildlife account. Moneys received under RCW 77.12-.320 as now or hereafter amended as compensation for wildlife losses shall be deposited in the state treasury to be credited to the special wildlife account.

(2) The commission may advise the state treasurer and the state investment board of a surplus in the special

wildlife account above the current needs. The state investment board may invest and reinvest the surplus, as the commission deems appropriate, 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). Income received from the investments shall be deposited to the credit of the special wildlife account. [1982 c 10 § 15. Prior: 1981 c 3 § 43; 1980 c 78 § 51; 1975 1st ex.s. c 207 § 2.]

Severability—1982 c 10: See note following RCW 6.12.100.

Effective dates—**Severability**—1981 c 3: See notes following RCW 43.33A.010.

Effective date—**Intent, construction**—**Savings**—**Severability**—1980 c 78: See notes following RCW 77.04.010.

77.12.440 Fish restoration and management projects—Federal act. The state assents to the act of congress entitled: "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," (64 Stat. 430; 16 U.S.C. Sec. 777). The department of game and the department of fisheries shall establish, conduct, and maintain fish restoration and management projects, as defined in the act, and shall comply with the act and related rules adopted by the secretary of the interior. [1982 c 26 § 2; 1980 c 78 § 61; 1955 c 36 § 77.12.440. Prior: 1951 c 124 § 1.]

Intent—1982 c 26: "The legislature recognizes that funds from the federal Dingell-Johnson Act (64 Stat. 430; 16 U.S.C. Sec. 777) are derived from a tax imposed on the sale of recreational fishing tackle, and that these funds are granted to the state for fish restoration and management projects. The intent of this 1982 amendment to RCW 77.12.440 is to provide for the allocation of the Dingell-Johnson aid for fish restoration and management projects of the department of game and the department of fisheries. Such funds shall be subject to appropriation by the legislature." [1982 c 26 § 1.]

Effective date—1982 c 26: "This act shall take effect on October 1, 1982." [1982 c 26 § 3.] "This act" consists of the 1982 c 26 amendment to RCW 77.12.440, the intent section footnoted above, and this effective date section.

Effective date—**Intent, construction**—**Savings**—**Severability**—1980 c 78: See notes following RCW 77.04.010.

77.12.610 Wildlife check stations—Purpose. The purposes of RCW 77.12.610 through 77.12.630 and 77.16.610 are to facilitate the department's gathering of biological data for managing wildlife resources of this state and to protect wildlife resources by assuring compliance with Title 77 RCW, and rules adopted thereunder, in a manner designed to minimize inconvenience to the public. [1982 c 155 § 1.]

77.12.620 Wildlife check stations—Stopping for inspection. The department is authorized to require hunters and fishermen occupying a motor vehicle approaching or entering a check station to stop and produce for inspection: (1) Any wildlife in their possession; (2) licenses, permits, tags, stamps, or punchcards required under Title 77 RCW, or rules adopted thereunder. For these purposes, the department is authorized to operate check stations which shall be plainly marked by signs, operated by at least one uniformed wildlife agent, and operated in a safe manner. [1982 c 155 § 2.]

77.12.630 Wildlife check stations—Other inspections, powers. The powers conferred by RCW 77.12.610 through 77.12.630 and 77.16.610 are in addition to all other powers conferred by law upon the department. Nothing in RCW 77.12.610 through 77.12.630 and 77.16.610 shall be construed to prohibit the department from operating wildlife information stations at which persons shall not be required to stop and report, or from executing arrests, searches, or seizures otherwise authorized by law. [1982 c 155 § 4.]

Chapter 77.16

PROHIBITED ACTS AND PENALTIES

Sections

77.16.020	Violations—Closed season, waters, areas—Bag limits—Special licenses, tags, stamps, or punchcards.
77.16.610	Wildlife check stations—Violations.

77.16.020 Violations—Closed season, waters, areas—Bag limits—Special licenses, tags, stamps, or punchcards. (1) It is unlawful to hunt, fish, possess, or control a species of game bird, game animal, or game fish during the closed season for that species except as provided in *RCW 77.16.030.

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

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

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

(5) It is unlawful to hunt or fish for wildlife, practice taxidermy for profit, deal in raw furs for profit, act as a fishing guide, or operate a game farm, stock game fish, or collect wildlife for research or display, without having in possession the license, permit, tag, stamp, or punchcard required by chapter 77.32 RCW or rule of the commission. The activities described in this subsection shall be conducted in accordance with rules of the commission. [1981 c 310 § 3; 1980 c 78 § 70; 1977 c 44 § 1; 1955 c 36 § 77.16.020. Prior: 1947 c 275 § 41; Rem. Supp. 1947 § 5992-50.]

***Reviser's note:** RCW 77.16.030 was decodified and recodified as RCW 77.12.105 pursuant to 1980 c 78 § 24.

Effective dates—**Legislative intent**—1981 c 310: See notes following RCW 77.12.170.

Effective date—**Intent, construction**—**Savings**—**Severability**—1980 c 78: See notes following RCW 77.04.010.

77.16.610 Wildlife check stations—Violations. It is unlawful for any hunter or fisherman approaching or entering a check station to fail to:

(1) Obey check station signs;

(2) Stop and report at a check station, when directed to do so by a uniformed wildlife agent; or

(3) Produce for inspection, when requested to do so by a wildlife agent: (a) Wildlife; or (b) licenses, permits, tags, stamps, or punchcards required under Title 77 RCW, or rules adopted thereunder. [1982 c 155 § 3.]

Chapter 77.20

BEAVER

Sections

77.20.015 Repealed.

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

Chapter 77.21

PENALTIES—PROCEEDINGS

Sections

77.21.010 Penalties—Confiscated articles and devices, disposal—Jurisdiction of courts.

77.21.010 Penalties—Confiscated articles and devices, disposal—Jurisdiction of courts. (1) A person violating RCW 77.16.040, 77.16.050, 77.16.060, 77.16.080, 77.16.210, 77.16.220, 77.16.310, 77.16.320, or 77.32.211, or committing a violation of RCW 77.16.020 or 77.16.120 involving big game or an endangered species is guilty of a gross misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars and not more than one thousand dollars or by imprisonment in the county jail for not less than thirty days and not more than one year or by both the fine and imprisonment. Each subsequent violation within a five-year period of RCW 77.16.040, 77.16.050, or 77.16.060, or of RCW 77.16.020 or 77.16.120 involving big game or an endangered species, as defined by the Washington state game commission under the authority of RCW 77.04.090, shall be prosecuted and punished as a class C felony as defined in RCW 9A.20.020. In connection with each such felony prosecution, the director shall provide the court with an inventory of all articles or devices seized under this title in connection with the violation. Inventoried articles or devices shall be disposed of pursuant to RCW 77.21.040.

(2) A person violating or failing to comply with this title or a rule of the commission for which no penalty is otherwise provided is guilty of a misdemeanor and shall be punished for each offense by a fine of not less than twenty-five dollars or by imprisonment for not more than ninety days in the county jail or by both the fine and imprisonment.

(3) Persons convicted of a violation shall pay the costs of prosecution and the penalty assessment in addition to the fine or imprisonment.

(4) The unlawful killing, taking, or possession of each wildlife member constitutes a separate offense.

(5) District courts have jurisdiction concurrent with the superior courts of misdemeanors and gross misdemeanors committed in violation of this title or rules of the commission and may impose the punishment provided for these offenses. Superior courts have jurisdiction over felonies committed in violation of this title. [1982 c 31 § 1; 1981 c 310 § 6; 1980 c 78 § 92; 1955 c 36 § 77.16.240. Prior: 1947 c 275 § 63; Rem. Supp. 1947 § 5992–72. Formerly RCW 77.16.240.]

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Title 79

PUBLIC LANDS

Chapters

- 79.01** Public lands act.
- 79.16** Tidelands, shorelands, and harbor areas.
- 79.20** Oyster lands.
- 79.24** Capitol building lands.
- 79.44** Assessments against public lands.
- 79.64** Funds for managing and administering lands.
- 79.90** Aquatic lands—In general.
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- 79.94** Aquatic lands—Tidelands and shorelands.
- 79.95** Aquatic lands—Beds of navigable waters.
- 79.96** Aquatic lands—Oysters, geoducks, shellfish, and other aquacultural uses.

Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action: RCW 43.01.210.

Chapter 79.01

PUBLIC LANDS ACT

Sections

- 79.01.008 through 79.01.032 Repealed. (Effective July 1, 1983.)
- 79.01.036 "Improvements". (Effective July 1, 1983.)
- 79.01.038 "Valuable materials". (Effective July 1, 1983.)
- 79.01.044 Repealed. (Effective July 1, 1983.)
- 79.01.052 Land commissioners—Office—Records—Rules and regulations. (Effective July 1, 1983.)
- 79.01.084 Appraisal, sale and lease of state lands—Blank forms of applications. (Effective July 1, 1983.)
- 79.01.088 Who may purchase or lease—Application—Fees. (Effective July 1, 1983.)
- 79.01.096 Maximum and minimum acreage subject to sale or lease—Exception—Approval by legislature or regents—Duration of leases—Alteration of leases.
- 79.01.116 Date of sale limited by time of appraisal. (Effective July 1, 1983.)
- 79.01.120 Survey to determine area subject to sale or lease. (Effective July 1, 1983.)
- 79.01.124 Timber and valuable materials sold separately, when. (Effective July 1, 1983.)
- 79.01.126 Timber sold separately—Contract provisions for sale price adjustments. (Effective April 1, 1983.)
- 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 (as amended by 1982 c 27).
- 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 (as amended by 1982 c 222).
- 79.01.1331 Short title. (Expires December 31, 1984.)
- 79.01.1332 Definitions. (Expires December 31, 1984.)

- 79.01.1333 Extension of existing state timber sales contracts authorized—Conditions and limitations—Expiration of authority. (Expires December 31, 1984.)
- 79.01.1334 Existing sales of timber purchased at auction—Credit of extension fee to purchase of timber—Authorized—Conditions—Extension of contracts on which extension fees have been paid. (Expires December 31, 1984.)
- 79.01.1335 Defaults on certain timber sale contracts—Prohibition on refunds—Administrative fee—Credit for road work—Use—Other defaults. (Expires December 31, 1984.)
- 79.01.1336 Extension of eligible timber sale contracts in default. (Expires December 31, 1984.)
- 79.01.1337 Rules to be adopted. (Expires December 31, 1984.)
- 79.01.1338 Interest rate limitation. (Expires December 31, 1984.)
- 79.01.1339 RCW 79.01.1331 through 79.01.1339 inapplicable to timber damaged by Mount St. Helens. (Expires December 31, 1984.)
- 79.01.176 Road material—Sale to public authorities—Disposition of proceeds. (Effective July 1, 1983.)
- 79.01.178 Repealed. (Effective July 1, 1983.)
- 79.01.184 Sale procedure—Fixing date, place and time of sale—Notice—Publication and posting—Direct sale to applicant without notice, when (as amended by 1982 c 27).
- 79.01.184 Sale procedure—Fixing date, place and time of sale—Notice—Publication and posting—Direct sale to applicant without notice, when (as amended by 1982 1st ex.s. c 21). (Effective July 1, 1983.)
- 79.01.188 Sale procedure—Pamphlet list of lands or materials—Notice of sale, proof of publishing and posting. (Effective July 1, 1983.)
- 79.01.204 Sale procedure—Conduct of sales—Deposits—Memorandum of purchase—Bid bonds.
- 79.01.212 Sale procedure—Confirmation of sale. (Effective July 1, 1983.)
- 79.01.216 Sale procedure—Terms of payment—Deferred payments, rate of interest. (Effective July 1, 1983.)
- 79.01.220 Sale procedure—Certificate to governor of payment in full—Deed. (Effective July 1, 1983.)
- 79.01.224 Sale procedure—Reservation in contract. (Effective July 1, 1983.)
- 79.01.228 Sale procedure—Form of contract—Forfeiture—Extension of time. (Effective July 1, 1983.)
- 79.01.236 Subdivision of contracts or leases—Fee. (Effective July 1, 1983.)
- 79.01.240 Effect of mistake or fraud. (Effective July 1, 1983.)
- 79.01.292 Assignment of contracts or leases. (Effective July 1, 1983.)
- 79.01.304 Abstracts of state lands. (Effective July 1, 1983.)
- 79.01.312 Certain state lands subject to easements for removal of valuable materials. (Effective July 1, 1983.)
- 79.01.316 Certain state lands subject to easements for removal of valuable materials—Private easement over public lands subject to common user in removal of valuable materials. (Effective July 1, 1983.)
- 79.01.320 Certain state lands subject to easements for removal of valuable materials—Reasonable facilities and service for transportation must be furnished. (Effective July 1, 1983.)
- 79.01.328 Certain state lands subject to easements for removal of valuable materials—Penalty for violation of orders—Reversion of easement. (Effective July 1, 1983.)
- 79.01.340 Right of way for roads and streets over, or for county wharves upon, state lands. (Effective July 1, 1983.)
- 79.01.368 through 79.01.380 Repealed. (Effective July 1, 1983.)
- 79.01.384 Right of way for utility pipe lines, transmission lines, etc. (Effective July 1, 1983.)
- 79.01.396 Right of way for irrigation, diking and drainage purposes. (Effective July 1, 1983.)
- 79.01.408 Grant of overflow rights. (Effective July 1, 1983.)
- 79.01.414 Grant of such easements and rights as applicant may acquire in private lands by eminent domain. (Effective July 1, 1983.)
- 79.01.420 through 79.01.496 Repealed. (Effective July 1, 1983.)
- 79.01.504 through 79.01.520 Repealed. (Effective July 1, 1983.)
- 79.01.521 Decodified. (Effective July 1, 1983.)
- 79.01.524 Repealed. (Effective July 1, 1983.)
- 79.01.525 Increasing rates for lease of harbor areas—Expiration of section (as amended by 1982 c 117).
- 79.01.525 Increasing rates for lease of harbor areas—Expiration of section (as amended by 1982 1st ex.s. c 21).
- 79.01.528 through 79.01.608 Repealed. (Effective July 1, 1983.)
- 79.01.716 Repealed. (Effective July 1, 1983.)
- 79.01.740 Reconsideration of official acts. (Effective July 1, 1983.)
- 79.01.770 School districts, institutions of higher education, purchase of leased lands with improvements by—Authorized—Exception—Price.
- 79.01.786 Repealed. (Effective July 1, 1983.)
- 79.01.788 Repealed. (Effective July 1, 1983.)

79.01.008 through 79.01.032 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.036 "Improvements". (Effective July 1, 1983.) Whenever used in this chapter the term "improvements" when referring to state lands shall mean anything considered a fixture in law placed upon or attached to such lands that has changed the value of the lands or any changes in the previous condition of the fixtures that changes the value of the land. [1982 1st ex.s. c 21 § 147; 1979 ex.s. c 109 § 1; 1927 c 255 § 9; RRS § 7797-9. Prior: 1897 c 89 § 5. Formerly RCW 79.04.090.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Severability—1979 ex.s. c 109: "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." [1979 ex.s. c 109 § 24.]

Effective date—1979 ex.s. c 109: "The provisions of this 1979 amendatory act shall take effect September 26, 1979." [1979 ex.s. c 109 § 25.]

79.01.038 "Valuable materials". (Effective July 1, 1983.) "Valuable materials." Whenever used in this title the term "valuable materials" when referring to state lands means any product or material on said lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value except mineral, coal, petroleum, and gas as provided for under chapter 79.01 RCW. [1982 1st ex.s. c 21 § 148; 1959 c 257 § 1.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.044 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.052 Land commissioners—Office—Records—Rules and regulations. (Effective July 1, 1983.) The board of state land commissioners shall have its office and keep its records in the office of the commissioner of public lands, and shall keep a full and complete record of its proceedings relating to the appraisal of lands granted for educational purposes, and the board shall have the power, from time to time, to make and enforce rules and regulations for the carrying out of the

provisions of this chapter relating to its duties not inconsistent with law. [1982 1st ex.s. c 21 § 149; 1927 c 255 § 13; RRS § 7797-13. Formerly RCW 43.65.020.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.084 Appraisal, sale and lease of state lands—Blank forms of applications. (Effective July 1, 1983.) The commissioner of public lands shall cause to be prepared, and furnish to applicants, blank forms of applications for the appraisal and purchase of any state lands and the purchase of timber, fallen timber, stone, gravel, or other valuable materials situated thereon, and the lease of state lands, which forms shall contain such instructions as will inform and aid intending applicants in making applications. [1982 1st ex.s. c 21 § 150; 1959 c 257 § 2; 1927 c 255 § 21; RRS § 7797-21. Prior: 1909 c 223 § 2; 1907 c 256 § 5; 1903 c 74 § 1; 1897 c 89 § 11; 1895 c 178 §§ 17, 18. Formerly RCW 79.08.040.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.088 Who may purchase or lease—Application—Fees. (Effective July 1, 1983.) Any person desiring to purchase any state lands, or to purchase any timber, fallen timber, stone, gravel, or other valuable materials situated on state lands, or to lease any state lands, shall file in the office of the commissioner of public lands an application, on the proper form which shall be accompanied by reasonable fees to be prescribed by the board of natural resources in an amount sufficient to defray the cost of performing or otherwise providing for the processing, review, or inspection of the applications or activities permitted pursuant to the applications for each category of services performed. These fees shall be credited to the resource management cost account (RMCA) fund as established under RCW 79.64.010 in the general fund. [1982 1st ex.s. c 21 § 151; 1979 ex.s. c 109 § 2; 1967 c 163 § 4; 1959 c 257 § 3; 1927 c 255 § 22; RRS § 7797-22. Prior: 1909 c 223 § 2; 1907 c 256 § 5; 1903 c 74 § 1; 1897 c 89 § 11; 1895 c 178 §§ 17, 18. Formerly RCW 79.12.010.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.01.036.

79.01.096 Maximum and minimum acreage subject to sale or lease—Exception—Approval by legislature or regents—Duration of leases—Alteration of leases. Not more than one hundred and sixty acres of any land granted to the state by the United States shall be offered for sale in one parcel and no university lands shall be offered for sale except by legislative directive or with the consent of the board of regents of the University of Washington.

Any land granted to the state by the United States may be sold or leased for any lawful purpose in such minimum acreage as may be fixed by the department of natural resources.

[1982 RCW Supp—page 590]

Except as otherwise provided in RCW 79.01.770, upon the application of a school district or any institution of higher education for the purchase or lease of lands granted to the state by the United States, the department of natural resources may offer such land for sale or lease to such school district or institution of higher education in such acreage as it may determine, consideration being given upon application of a school district to school site criteria established by the state board of education: *Provided*, That in the event the department thereafter proposes to offer such land for sale or lease at public auction such school district or institution of higher education shall have a preference right for six months from notice of such proposal to purchase or lease such land at the appraised value determined by the board of natural resources.

State lands shall not be leased for a longer period than ten years: *Provided*, That such lands may be leased for the purpose of prospecting for, developing and producing oil, gas and other hydrocarbon substances or for the mining of coal subject to the provisions of chapter 79.14 RCW and RCW 79.01.692. Such lands may be leased for agricultural purposes for any period not to exceed twenty-five years except that such leases which authorize tree fruit and grape production may be for any period up to fifty-five years. Such lands may be leased for public school, college or university purposes for any period not exceeding seventy-five years. Such lands may be leased for commercial, industrial, business, or recreational purposes for any period not exceeding fifty-five years. Such lands may be leased for residential purposes for any period not to exceed ninety-nine years. If during the term of the lease of any state lands for agricultural, grazing, commercial, residential, business, or recreational purposes, in the opinion of the department it is in the best interest of the state so to do, the department may, on the application of the lessee and in agreement with the lessee, alter and amend the terms and conditions of such lease. The sum total of the original lease term and any extension thereof shall not exceed the limits provided herein. [1982 c 54 § 1; 1979 ex.s. c 109 § 4; 1971 ex.s. c 200 § 1; 1970 ex.s. c 46 § 1; 1967 ex.s. c 78 § 1; 1959 c 257 § 5; 1955 c 394 § 1; 1927 c 255 § 24; RRS § 7797-24. Prior: 1915 c 147 § 15; 1909 p 256 § 4; 1907 c 256 § 5; 1903 c 91 § 3; 1897 c 89 § 11. Formerly RCW 79.12.030.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.01.093.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.01.036.

Severability—1971 ex.s. c 200: "If any provision of this 1971 amendatory act, or its application to any person or circumstances 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 200 § 6.]

Public lands, funds for support of common school fund: State Constitution Art. 9 § 3.

School and granted lands: State Constitution Art. 16.

University of Washington: Chapter 28B.20 RCW.

79.01.116 Date of sale limited by time of appraisal. (Effective July 1, 1983.) In no case shall any lands

granted to the state be offered for sale unless the same shall have been appraised by the board of natural resources within ninety days prior to the date fixed for the sale, and in no case shall any other state lands, or any materials on any state lands, be offered for sale unless the same shall have been appraised by the commissioner of public lands within ninety days prior to the date fixed for the sale. [1982 1st ex.s. c 21 § 152; 1959 c 257 § 10; 1935 c 55 § 1 (adding section 29 to 1927 c 255 in lieu of original section 29 which was vetoed); RRS § 7797-29. Prior: 1909 c 223 § 2. Formerly RCW 79.12.080.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.120 Survey to determine area subject to sale or lease. (Effective July 1, 1983.) The commissioner of public lands may cause any state lands to be surveyed for the purpose of ascertaining and determining the area subject to sale or lease. [1982 1st ex.s. c 21 § 153; 1959 c 257 § 11; 1927 c 255 § 30; RRS § 7797-30. Prior: 1909 c 223 § 2; 1907 c 256 § 5; 1903 c 74 § 1; 1897 c 89 § 11; 1895 c 178 §§ 17, 18. Formerly RCW 79.12.090.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.124 Timber and valuable materials sold separately, when. (Effective July 1, 1983.) Timber, fallen timber, stone, gravel, or other valuable material situated upon state lands may be sold separate from the land, when in the judgment of the commissioner of public lands, it is for the best interest of the state so to sell the same, and in case the estimated amount of timber on any tract of state lands, shall exceed one million feet to the quarter section, the timber shall be sold separate from the land. When application is made for the purchase of any valuable material situated upon state lands, the same inspection and report shall be had as upon an application for the appraisal and sale of such lands, and the commissioner of public lands shall appraise the value of the material applied for. No timber, fallen timber, stone, gravel, or other valuable material, shall be sold for less than the appraised value thereof. [1982 1st ex.s. c 21 § 154; 1959 c 257 § 12; 1929 c 220 § 1; 1927 c 255 § 31; RRS § 7797-31. 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 79.12.100.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Department of natural resources designates areas for geoduck harvesting: RCW 75.28.286.

Forests and forest products: Title 76 RCW.

79.01.126 Timber sold separately—Contract provisions for sale price adjustments. (Effective April 1, 1983.) (1) When timber situated on state lands is sold separately from the land, the sale contract shall include provisions for adjustments in the sale price to reflect changes in the market index subsequent to the time of sale. The price to be paid by a purchaser for timber removed during a calendar quarter shall equal the sum of

the contract bid price and the market index change amount for that quarter.

(2) As used in this section:

(a) "Market index" means a composite index established by the department of natural resources. Each index shall consist of either the current market prices of various species and grades of logs harvested in this state, or the current market price of wood products made from logs harvested in this state. The department shall establish as many distinct indexes as it finds necessary to accurately reflect changes in market prices of various species and grades of logs or wood products made from logs.

(b) "Market index change amount" means an amount calculated by:

(i) Subtracting the market index for the calendar quarter during which the timber was sold from the market index for the calendar quarter in which the timber was removed; and

(ii) Dividing the remainder calculated under (b)(i) of this subsection by two. [1982 c 222 § 14.]

Legislative findings—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.132 Timber and valuable materials sold separately—Lump sum sales or scale sales—Installation purchases, when—Time limit on removal—Reversion—Extensions, payment and interest—Direct sale to applicant without notice, when (as amended by 1982 c 27). 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 bank letters of credit, 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 one thousand dollars or less may be sold directly to the applicant for cash at full appraised value without notice or advertising. [1982 c 27 § 3; 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.]

79.01.132 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 (as amended by 1982 c 222). 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.

The provisions of this section apply unless otherwise provided by statute. [1982 c 222 § 11; 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.]

Reviser's note: RCW 79.01.132 was amended twice during the 1982 regular session of the legislature, each without reference to the other.

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

Legislative findings—Savings—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1331 Short title. (Expires December 31, 1984.) RCW 79.01.1332 through 79.01.1339 shall be known as the forest products industry recovery act of 1982. [1982 c 222 § 2.]

Legislative findings—1982 c 222: "(1) The legislature finds as follows:

(a) A competitive, financially healthy forest products industry is important to the economic well-being of the state and the trust beneficiaries of the state forest lands administered by the department of natural resources. The forest products industry provides employment, tax revenues, and a long-term, continuous source of income for the state educational system and other trust beneficiaries. A reduction in the number of timber companies would increase unemployment, decrease tax revenues, and reduce competition and the levels of short-term and long-term income for the trust beneficiaries.

(b) The forest products industry is currently suffering an economic downturn. Current economic conditions will hinder certain purchasers from meeting timber contract obligations to the state and may lead to business failures.

(c) The United States forest service and the state of Oregon have provided certain relief to some timber sales purchasers. Action by this state is necessary to maintain a competitive timber sales program and to insure a regular and timely harvest of timber from state lands.

(d) The interests of the state and the trust beneficiaries will be best served by modifying current state law as it applies to the state's timber sales program.

(e) The measures provided for in this act balance the needs of the trust beneficiaries for short-term revenue and cash flow with the long-term need for a competitive forest products industry which will provide a sustained income to the trusts in the future.

(2) The legislature further finds that the department of natural resources should have authority to take certain steps to:

(a) Help retain the values of existing sales of timber;

(b) Promote harvesting and the production of income to the state;

(c) Stimulate employment in the forest products industry; and

(d) Assist the forest products industry to assure future diversity and competitiveness.

(3) The legislature further finds that the board of natural resources, as the designated trust land manager, is the appropriate body to establish annual sales levels of timber from state trust lands, and that a significant volume of short-term sales offered over the course of the next two years will aid in efforts to generate sufficient trust income and help meet the goals outlined in subsection (2) of this section." [1982 c 222 § 1.]

Expiration—Savings—1982 c 222: "RCW 79.01.1331 through 79.01.1339 shall expire December 31, 1984. Such expiration shall not, however, modify or terminate any rights created by this act prior to its expiration." [1982 c 222 § 12.]

Effective dates—1982 c 222: "Sections 2 through 10 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Section 14 of this act shall take effect April 1, 1983." [1982 c 222 § 15.] "Sections 2 through 10 of this act" consist of the enactment of RCW 79.01.1331

through 79.01.1339. "Section 14 of this act" consists of the enactment of RCW 79.01.126.

Severability—1982 c 222: "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." [1982 c 222 § 17.]

79.01.1332 Definitions. (Expires December 31, 1984.) Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 79.01.1332 through 79.01.1339.

(1) "Commissioner" means the commissioner of public lands.

(2) "Department" means the department of natural resources.

(3) "Timber sale contract" means a contract for the purchase of state timber from the department which has a minimum appraisal value over twenty thousand dollars and has been purchased at public auction by voice or sealed bid.

(4) The term "purchaser" shall include any affiliate, subsidiary or parent company thereof. [1982 c 222 § 3.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1333 Extension of existing state timber sales contracts authorized—Conditions and limitations—Expiration of authority. (Expires December 31, 1984.) Notwithstanding the provisions of RCW 79.01.132, the department, upon application by the purchaser of an existing state timber sale contract entered into between January 1, 1978, and July 1, 1980, or any Lincoln day blowdown sales contracts purchased in 1980, is authorized to extend such contract without charge one day for every day the purchaser engages in or has agreed to engage in the removal of timber purchased by that purchaser under a timber sale contract: *Provided*, That no more than sixty percent of the timber sales sold in calendar years 1982 and 1983 shall be designated by the department as sales on which a purchaser may earn extension time credits. Such extension shall be in accordance with and computed on the basis of rules adopted by the department, including specifying the minimum volume required to be removed on a daily basis to earn an extension time credit. The department's authority to grant the extensions under this section expires on December 31, 1983. The extension days earned as provided in this section may only be utilized to extend a state timber sale without charge up to and including December 31, 1984. [1982 c 222 § 4.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1334 Existing sales of timber purchased at auction—Credit of extension fee to purchase of timber—Authorized—Conditions—Extension of contracts on which extension fees have been paid. (Expires December 31, 1984.) (1) The department of natural resources is authorized for existing sales of timber purchased at auction between January 1, 1978, and July 1,

1980, or any Lincoln day blowdown sales contracts purchased in 1980, which sales had a minimum appraised price of more than twenty thousand dollars, to enter into agreements with a purchaser authorizing the credit of the extension fee to the purchase of timber if the extension fee is paid prior to the expiration date of the existing contract or an extension thereof. The credit shall be applied to payments for the removal, processing, or cutting of timber or other forest products conveyed. The department of natural resources may enter into agreements under this section upon application by a purchaser of a qualifying sale in accordance with rules adopted by the department.

(2) Any person extending a timber sale contract on which that person has paid extension fees prior to April 3, 1982, is entitled to an equivalent extension of time without payment on that contract up to a maximum of one year per contract. [1982 c 222 § 5.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1335 Defaults on certain timber sale contracts—Prohibition on refunds—Administrative fee—Credit for road work—Use—Other defaults. (Expires December 31, 1984.) (1) Subsections (2), (3) and (4) of this section shall only apply to defaults by purchasers of any state timber sale contract entered into between January 1, 1978, and July 1, 1980, or any Lincoln day blowdown sales contracts purchased in 1980:

(a) If the default is after April 3, 1982; and

(b) If the department receives notification from the purchaser in writing prior to July 15, 1982; and

(c) Limited to a total number of sales having a cumulative volume remaining under contract of not more than fifteen million board feet of timber. Such volume of each sale shall be determined by utilizing the original cruise estimates.

(2) Any purchaser defaulting on a contract under subsection (1) of this section shall not be refunded any cash moneys paid to the department or any other moneys expended as a result of the contract, including, but not limited to, cash deposits, extension fees, bond deposits, or interest charges. That purchaser shall also be charged a fee of twenty-five hundred dollars for the administrative costs of reselling the timber.

(3) The purchaser shall receive a credit from the department for the value of any road work completed. The value of the road work shall be the value of the percentage of road work completed based on the original appraisal for the entire road work on the sale as determined by the department of natural resources. Additional credits shall not be allowed on the defaulted contract and additional damages, fees, or penalties shall not be assessed by the department against the purchaser.

(4) The credit for road work completed shall be used, at the choice of the purchaser of state timber, as an off-setting dollar amount of up to one-half of the price of stumpage being purchased, or as an off-setting dollar amount of up to one-half of any cash security deposits

required on a contract for the purchase of state timber, or as an off-setting dollar amount of up to one-half for any extension fee due on a contract for the purchase of state timber.

(5) Defaults by a purchaser on sales not falling within the provisions of subsection (1) of this section shall be governed by the applicable provisions of state law, rules, and timber sale contracts in existence prior to April 3, 1982. [1982 c 222 § 6.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1336 Extension of eligible timber sale contracts in default. (Expires December 31, 1984.) If a timber sale contract otherwise eligible for extension or default under RCW 79.01.1332 through 79.01.1335 is in default, it may be extended by paying the extension fee at the rate provided under the contract of sale from the date of the expiration of the contract, or from the date of the last extension, to the date of application for extension or default under RCW 79.01.1332 through 79.01.1335. [1982 c 222 § 7.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1337 Rules to be adopted. (Expires December 31, 1984.) The commissioner shall adopt rules as necessary for the administration of RCW 79.01.1331 through 79.01.1339. However, the failure to adopt such rules shall not prevent the immediate implementation of RCW 79.01.1331 through 79.01.1339. [1982 c 222 § 8.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1338 Interest rate limitation. (Expires December 31, 1984.) The interest rate on extensions granted after April 3, 1982, on existing state timber sale contracts purchased prior to December 31, 1980, shall not exceed thirteen percent per year. [1982 c 222 § 9.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.1339 RCW 79.01.1331 through 79.01.1339 inapplicable to timber damaged by Mount St. Helens. (Expires December 31, 1984.) RCW 79.01.1331 through 79.01.1339 do not apply to any sales of timber damaged by the eruption of Mount St. Helens. [1982 c 222 § 10.]

Legislative findings—Expiration—Savings—Effective dates—Severability—1982 c 222: See notes following RCW 79.01.1331.

79.01.176 Road material—Sale to public authorities—Disposition of proceeds. (Effective July 1, 1983.) Any county, city, or town desiring to purchase any stone, rock, gravel, or sand upon any state lands to be used in the construction, maintenance, or repair of any public street, road, or highway within such county, city, or town, may file with the commissioner of public

lands an application for the purchase thereof, which application shall set forth the quantity and kind of material desired to be purchased, the location thereof, and the name, or other designation, and location of the street, road, or highway upon which the material is to be used. The commissioner of public lands upon the receipt of such an application is authorized to sell said material in such manner and upon such terms as he deems advisable and for the best interest of the state for not less than the fair market value thereof to be appraised by the commissioner of public lands. The proceeds of any such sale shall be paid into the state treasury and credited to the fund to which the proceeds of the sale of the land upon which the material is situated would belong. [1982 1st ex.s. c 21 § 155; 1927 c 255 § 44; RRS § 7797-44. Prior: 1923 c 71 § 1; 1917 c 148 § 13. Formerly RCW 79.12.250.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.178 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.184 Sale procedure—Fixing date, place and time of sale—Notice—Publication and posting—Direct sale to applicant without notice, when (as amended by 1982 c 27). When the department of natural resources shall have decided to sell any public lands or valuable materials thereon, or with the consent of the board of regents of the University of Washington, or by legislative directive, shall have decided to sell any lot, block, tract or tracts of university lands, or the timber, fallen timber, stone, gravel or other valuable material thereon it shall be the duty of the department to forthwith fix the date, place, and time of sale, and no sale shall be had on any day which is a legal holiday.

The department shall give notice of the sale by advertisement published once a week for four weeks next before the time it shall name in said notice, in at least one newspaper published and of general circulation in the county in which the whole, or any part of any lot, block, or tract of land to be sold, or the material upon which is to be sold is situated, and by causing a copy of said notice to be posted in a conspicuous place in the department's Olympia office and the area headquarters administering such sale and in the office of the county auditor of such county, which notice shall specify the place and time of sale, the appraised value thereof, and describe with particularity each parcel of land to be sold, or from which valuable materials are to be sold, and in case of material sales the estimated volume thereof, and specify that the terms of sale will be posted in the area headquarters and the department's Olympia office: *Provided*, That any sale of timber, fallen timber, stone, gravel, sand, fill material, or building stone of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash at the full appraised value without notice or advertising. [1982 c 27 § 1; 1971 ex.s. c 123 § 2; 1969 ex.s. c 14 § 3; 1959 c 257 § 18; 1927 c 255 § 46; RRS § 7797-46. 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 79.12.300.]

79.01.184 Sale procedure—Fixing date, place and time of sale—Notice—Publication and posting—Direct sale to applicant without notice, when (as amended by 1982 1st ex.s. c 21). (Effective July 1, 1983.) When the department of natural resources shall have decided to sell any state lands or valuable materials thereon, or with the consent of the board of regents of the University of Washington, or by legislative directive, shall have decided to sell any lot, block, tract, or tracts of university lands, or the timber, fallen timber, stone, gravel, or other valuable material thereon it shall be the duty of the department to forthwith fix the date, place, and time of sale, and no sale shall be had on any day which is a legal holiday.

The department shall give notice of the sale by advertisement published once a week for four weeks next before the time it shall name in

said notice, in at least one newspaper published and of general circulation in the county in which the whole, or any part of any lot, block, or tract of land to be sold, or the material upon which is to be sold is situated, and by causing a copy of said notice to be posted in a conspicuous place in the department's Olympia office and the district headquarters administering such sale and in the office of the county auditor of such county, which notice shall specify the place and time of sale, the appraised value thereof, and describe with particularity each parcel of land to be sold, or from which valuable materials are to be sold, and in case of material sales the estimated volume thereof, and specify that the terms of sale will be posted in the district headquarters and the department's Olympia office: *Provided*, 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 the full appraised value without notice or advertising. [1982 1st ex.s. c 21 § 156; 1971 ex.s. c 123 § 2; 1969 ex.s. c 14 § 3; 1959 c 257 § 18; 1927 c 255 § 46; RRS § 7797-46. 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 79.12.300.]

Reviser's note: RCW 79.01.184 was amended twice during the 1982 legislative sessions, each without reference to the other. However, the amendment by 1982 1st ex.s. c 21 is not effective until July 1, 1983; until then, 1982 c 27 controls.

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

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

County auditor, transfer of duties: RCW 79.08.170.

School and granted lands, manner and terms of sale: State Constitution Art. 16 § 2.

79.01.188 Sale procedure—Pamphlet list of lands or materials—Notice of sale, proof of publishing and posting. (Effective July 1, 1983.) The commissioner of public lands shall cause to be printed a list of all public lands, or materials thereon, and the appraised value thereof, that are to be sold in the several counties of the state, said lists to be issued at least four weeks prior to the date of any sale of the lands or materials enumerated thereon, such lands and materials to be listed under the name of the county wherein located, in alphabetical order giving the appraised values, the character of the same, and such other information as may be of interest to prospective buyers. Said commissioner of public lands shall cause to be distributed to the auditor of each county in the state a sufficient number of such lists to supply the demands made upon them respectively as reported by such auditors. And said county auditors shall keep the list so furnished in a conspicuous place or receptacle on the counter of the public office of their respective departments, and, when requested so to do, shall mail copies of such lists to residents of their counties. The commissioner of public lands shall retain for free distribution in his office and the district offices sufficient copies of said lists, to be kept in a conspicuous place or receptacle on the counter of the general office of the commissioner of public lands, and the districts, and, when requested so to do, shall mail copies of said lists as issued to any applicant therefor. Proof of publication of the notice of sale shall be made by affidavit of the publisher, or person in charge, of the newspaper publishing the same and proof of posting the notice of sale and the receipt of the lists shall be made by certificate of the county auditor which shall forthwith be sent to and filed with the commissioner of public lands. [1982 1st ex.s. c

21 § 157; 1959 c 257 § 19; 1927 c 255 § 47; RRS § 7797-47. 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 79.12.310.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.
County auditor, transfer of duties: RCW 79.08.170.

79.01.204 Sale procedure—Conduct of sales—Deposits—Memorandum of purchase—Bid bonds. Sales by public auction under this chapter shall be conducted under the direction of the department of natural resources, by its authorized representative or by the county auditor of the county in which the sale is held. The department's representative and the county auditor are hereinafter referred to as auctioneers. On or before the time specified in the notice of sale each bidder shall deposit with the auctioneer, in cash or by certified check, cashier's check, or postal money order payable to the order of the department of natural resources, or by bid guarantee in the form of bid bond acceptable to the department, an amount equal to the deposit specified in the notice of sale. The deposit shall include a specified amount of the appraised price for the land or valuable materials offered for sale, together with any fee required by law for the issuance of contracts, deeds, or bills of sale. Said deposit may, when prescribed in notice of sale, be considered an opening bid of an amount not less than the minimum appraised price established in the notice of sale. The successful bidder's deposit will be retained by the auctioneer and the difference, if any, between the deposit and the total amount due shall on the day of the sale be paid in cash, certified check, cashier's check, draft, postal money order, or by personal check made payable to the department. If a bid bond is used, the share of the total deposit due guaranteed by the bid bond shall, within ten days of the day of sale, be paid in cash, certified check, cashier's check, or postal money order payable to the department. Other deposits, if any, shall be returned to the respective bidders at the conclusion of each sale. The auctioneer shall deliver to the purchaser a memorandum of his purchase containing a description of the land or materials purchased, the price bid, and the terms of the sale. The auctioneer shall at once send to the department the cash, certified check, cashier's check, draft, postal money order, or bid guarantee received from the purchaser, and a copy of the memorandum delivered to the purchaser, together with such additional report of his proceedings with reference to such sales as may be required by the department. [1982 c 27 § 2; 1979 c 54 § 3; 1961 c 73 § 4; 1959 c 257 § 22; 1927 c 255 § 51; RRS § 7797-51. 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 79.12.350.]

79.01.212 Sale procedure—Confirmation of sale. (Effective July 1, 1983.) If no affidavit showing that the interest of the state in such sale was injuriously affected by fraud or collusion, shall be filed with the department of natural resources within ten days from the receipt of the report of the auctioneer conducting the sale of any

state lands, or valuable material thereon, and it shall appear from such report that the sale was fairly conducted, that the purchaser was the highest bidder at such sale, and that his bid was not less than the appraised value of the property sold, and if the department shall be satisfied that the lands, or material, sold would not, upon being readvertised and offered for sale, sell for at least ten percent more than the price at which it shall have been sold, and that the payment, required by law to be made at the time of making the sale, has been made, and that the best interests of the state may be subserved thereby, the department shall enter upon its records a confirmation of sale and thereupon issue to the purchaser a contract of sale, deed or bill of sale, as the case may be, as in this chapter provided. [1982 1st ex.s. c 21 § 158; 1959 c 257 § 23; 1927 c 255 § 53; RRS § 7797-53. Prior: 1907 c 256 § 7; 1903 c 79 § 2; 1897 c 89 § 15; 1895 c 178 § 29. Formerly RCW 79.12.370.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.
County auditor, transfer of duties: RCW 79.08.170.

79.01.216 Sale procedure—Terms of payment—Deferred payments, rate of interest. (Effective July 1, 1983.) All state lands shall be sold on the following terms: One-tenth to be paid on the date of sale and one-tenth to be paid one year from the date of the issuance of the contract of sale, and one-tenth annually thereafter until the full purchase price has been paid, but any purchaser may make full payment at any time. All deferred payments shall draw interest at such rate as may be fixed, from time to time, by rule adopted by the board of natural resources, and the rate of interest, as so fixed at the date of each sale, shall be stated in all advertising for and notice of said sale and in the contract of sale. The first installment of interest shall become due and payable one year after the date of the contract of sale and thereafter all interest shall become due and payable annually on said date, and all remittances for payment of either principal or interest shall be forwarded to the commissioner of public lands. [1982 1st ex.s. c 21 § 159; 1969 ex.s. c 267 § 1; 1959 c 257 § 24; 1927 c 255 § 54; RRS § 7797-54. Prior: 1917 c 149 § 1; 1915 c 147 § 3; 1907 c 256 § 3; 1897 c 89 § 16; 1895 c 178 §§ 25, 29. Formerly RCW 79.12.380.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.220 Sale procedure—Certificate to governor of payment in full—Deed. (Effective July 1, 1983.) When the entire purchase price of any state lands shall have been fully paid, the commissioner of public lands shall certify such fact to the governor, and shall cause a deed signed by the governor and attested by the secretary of state, with the seal of the state attached thereto, to be issued to the purchaser and to be recorded in the office of the commissioner of public lands, and no fee shall be required for any deed of land issued by the governor other than the fee provided for in this chapter. [1982 1st ex.s. c 21 § 160; 1959 c 257 § 25; 1927 c 255 § 55; RRS § 7797-55. Prior: 1917 c 149 § 1; 1915 c 147

§ 3; 1907 c 256 § 3; 1897 c 89 § 16; 1895 c 178 §§ 25, 29. Formerly RCW 79.12.390.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.224 Sale procedure—Reservation in contract. (Effective July 1, 1983.) Each and every contract for the sale of, and each deed to, state lands shall contain the following reservation: "The party of the first part hereby expressly saves, excepts, and reserves out of the grant hereby made, unto itself and its successors and assigns forever, all oils, gases, coal, ores, minerals, and fossils of every name, kind, or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, and fossils; and it also hereby expressly saves and reserves out of the grant hereby made, unto itself and its successors and assigns forever, the right to enter by itself or its agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself its successors and assigns, forever, the right by its or their agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, and railroads, sink such shafts, remove such soil, and to remain on said lands or any part thereof for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself and its successors and assigns, as aforesaid, generally, all rights and powers in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved.

No rights shall be exercised under the foregoing reservation, by the state or its successors or assigns, until provision has been made by the state or its successors or assigns, to pay to the owner of the land upon which the rights reserved under this section to the state or its successors or assigns, are sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said land: *Provided*, That if said owner from any cause whatever refuses or neglects to settle said damages, then the state or its successors or assigns, or any applicant for a lease or contract from the state for the purpose of prospecting for or mining valuable minerals, or option contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situate, as may be necessary to determine the damages which said owner of said land may suffer." [1982 1st ex.s. c 21 § 161; 1927 c 255 § 56; RRS § 7797-56. Prior: 1917 c 149 § 1; 1915 c 147 § 3; 1907 c 256 § 3; 1897 c 89 § 16; 1895 c 178 §§ 25, 29. Formerly RCW 79.12.410.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.228 Sale procedure—Form of contract—Forfeiture—Extension of time. (Effective July 1, 1983.) The purchaser of state lands under the provisions of this chapter, except in cases where the full purchase price is paid at the time of the purchase, shall enter into and sign a contract with the state, to be signed by the commissioner of public lands on behalf of the state, with the seal of his office attached, and in a form to be prescribed by the attorney general, in which he shall covenant that he will make the payments of principal and interest, computed from the date the contract is issued, when due, and that he will pay all taxes and assessments that may be levied or assessed on such land, and that on failure to make the payments as prescribed in this chapter when due, and for six months thereafter, that he will, on demand of the commissioner of public lands, surrender said premises, and that upon such failure for six months all rights of the purchaser under said contract may, at the election of the commissioner of public lands, acting for the state, and without notice to said purchaser, be declared to be forfeited, and that when so declared forfeited the state shall be released from all obligation to convey the land.

The contract provided for in this section shall be executed in duplicate, and one copy shall be retained by the purchaser and the other shall be filed in the office of the commissioner of public lands.

The commissioner of public lands may, as he deems advisable, extend the time for payment of principal and interest on contracts heretofore issued, and contracts to be issued under this chapter.

The commissioner of public lands shall notify the purchaser of any state lands in each instance when payment on his contract is overdue, and that he is liable to forfeiture if payment is not made within six months from the time the same became due, unless the time be extended by the commissioner of public lands. [1982 1st ex.s. c 21 § 162; 1959 c 257 § 26; 1927 c 255 § 57; RRS § 7797-57. Prior: 1897 c 89 §§ 17, 18, 27; 1895 c 178 §§ 30, 31. Formerly RCW 79.12.400.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.236 Subdivision of contracts or leases—Fee. (Effective July 1, 1983.) Whenever the holder of a contract of purchase of any state lands, or the holder of any lease of any such lands, except for mining of valuable minerals or coal, or extraction of petroleum or gas, shall surrender the same to the commissioner with the request to have it divided into two or more contracts, or leases, the commissioner may divide the same and issue new contracts, or leases, but no new contract, or lease, shall issue while there is due and unpaid any interest, rental, or taxes or assessments on the land held under such contract or lease, nor in any case where the commissioner is of the opinion that the state's security would be impaired or endangered by the proposed division. For all such new contracts, or leases, a fee as determined by the

board of natural resources for each new contract or lease issued, shall be paid by the applicant and such fee shall be paid into the state treasury to the resource management cost account fund established in the general fund pursuant to RCW 79.64.010. [1982 1st ex.s. c 21 § 163; 1979 ex.s. c 109 § 8; 1959 c 257 § 27; 1955 c 394 § 2; 1927 c 255 § 59; RRS § 7797-59. Prior: 1903 c 79 § 3. Formerly RCW 79.12.260.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.01.036.

79.01.240 Effect of mistake or fraud. (Effective July 1, 1983.) Any sale or lease of state lands made by mistake, or not in accordance with law, or obtained by fraud or misrepresentation, shall be void, and the contract of purchase, or lease, issued thereon, shall be of no effect, and the holder of such contract, or lease, shall be required to surrender the same to the department of natural resources, which, except in the case of fraud on the part of the purchaser, or lessee, shall cause the money paid on account of such surrendered contract, or lease, to be refunded to the holder thereof, provided the same has not been paid into the state treasury. [1982 1st ex.s. c 21 § 164; 1959 c 257 § 28; 1927 c 255 § 60; RRS § 7797-60. Prior: 1903 c 79 § 3. Formerly RCW 79.12.280.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.292 Assignment of contracts or leases. (Effective July 1, 1983.) All contracts of purchase, or leases, of state lands issued by the department of natural resources shall be assignable in writing by the contract holder or lessee and the assignee shall be subject to and governed by the provisions of law applicable to the purchaser, or lessee, of whom he is the assignee, and shall have the same rights in all respects as the original purchaser, or lessee, of the lands, provided the assignment is approved by the department of natural resources and entered of record in its office. [1982 1st ex.s. c 21 § 165; 1927 c 255 § 73; RRS § 7797-73. Prior: 1903 c 79 § 8. Formerly RCW 79.12.270.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.304 Abstracts of state lands. (Effective July 1, 1983.) The commissioner of public lands shall cause full and correct abstracts of all the state lands to be made and kept in his office in suitable and well bound books, and other suitable records. Such abstracts shall show in proper columns and pages the section or part of section, lot or block, township and range in which each tract is situated, whether timber or prairie, improved or unimproved, the appraised value per acre, the value of improvements and the value of damages, and the total value, the several values of timber, stone, gravel, or other valuable materials thereon, the date of sale, the name of purchaser, sale price per acre, the date of lease, the name of lessee, the term of the lease, the annual

rental, amount of cash paid, amount unpaid and when due, amount of annual interest, and in proper columns such other facts as may be necessary to show a full and complete abstract of the conditions and circumstances of each tract or parcel of land from the time the title was acquired by the state until the issuance of a deed or other disposition of the land by the state. [1982 1st ex.s. c 21 § 166; 1927 c 255 § 76; RRS § 7797-76. Prior: (i) 1897 c 89 § 32; RRS § 7823. (ii) 1911 c 59 § 9; RRS § 7899. Formerly RCW 43.12.080.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.312 Certain state lands subject to easements for removal of valuable materials. (Effective July 1, 1983.) All state lands granted, sold or leased since the fifteenth day of June, 1911, or hereafter granted, sold or leased, containing timber, minerals, stone, sand, gravel, or other valuable materials, or when other state lands contiguous or in proximity thereto contain any such valuable materials, shall be subject to the right of the state, or any grantee or lessee thereof who has acquired such other lands, or any such valuable materials thereon, since the fifteenth day of June, 1911, or hereafter acquiring such other lands or valuable materials thereon, to acquire the right of way over such lands so granted, sold or leased, for private railroads, skid roads, flumes, canals, watercourses or other easements for the purpose of, and to be used in, transporting and moving such valuable materials from such other lands, over and across the lands so granted or leased, upon the state, or its grantee or lessee, paying to the owner of lands so granted or sold, or the lessee of the lands so leased, reasonable compensation therefor. In case the parties interested cannot agree upon the damages incurred, the same shall be ascertained and assessed in the same manner as damages are ascertained and assessed against a railroad company seeking to condemn private property. [1982 1st ex.s. c 21 § 167; 1927 c 255 § 78; RRS § 7797-78. Prior: 1911 c 109 § 1. Formerly RCW 79.36.010.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Later enactment: RCW 79.36.230.

Railroads, eminent domain: RCW 81.36.010 and 81.53.180.

State lands, eminent domain: RCW 8.28.010.

79.01.316 Certain state lands subject to easements for removal of valuable materials—Private easement over public lands subject to common user in removal of valuable materials. (Effective July 1, 1983.) Every grant, deed, conveyance, contract to purchase or lease made since the fifteenth day of June, 1911, or hereafter made to any person, firm, or corporation, for a right of way for a private railroad, skid road, canal, flume, watercourse, or other easement, over or across any state lands for the purpose of, and to be used in, transporting and moving timber, minerals, stone, sand, gravel, or other valuable materials of the land, shall be subject to the right of the state, or any grantee or lessee thereof, or

other person who has acquired since the fifteenth day of June, 1911, or shall hereafter acquire, any lands containing valuable materials contiguous to, or in proximity to, such right of way, or who has so acquired or shall hereafter acquire such valuable materials situated upon state lands or contiguous to, or in proximity to, such right of way, of having such valuable materials transported or moved over such private railroad, skid road, flume, canal, watercourse, or other easement, after the same is or has been put in operation, upon paying therefor just and reasonable rates for transportation, or for the use of such private railroad, skid road, flume, canal, watercourse, or other easement, and upon complying with just, reasonable and proper rules and regulations relating to such transportation or use, which rates, rules, and regulations, shall be under the supervision and control of the utilities and transportation commission. [1982 1st ex.s. c 21 § 168; 1927 c 255 § 79; RRS § 7797-79. Prior: 1911 c 109 § 2. Formerly RCW 79.36.020.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Later enactment: RCW 79.36.240.

Washington utilities and transportation commission: Chapter 80.01 RCW.

79.01.320 Certain state lands subject to easements for removal of valuable materials—Reasonable facilities and service for transportation must be furnished. (Effective July 1, 1983.) Any person, firm or corporation, having acquired such right of way or easement since the fifteenth day of June, 1911, or hereafter acquiring such right of way or easement over any state lands for the purpose of transporting or moving timber, mineral, stone, sand, gravel, or other valuable materials, and engaged in such business thereon, shall accord to the state, or any grantee or lessee thereof, having since the fifteenth day of June, 1911, acquired, or hereafter acquiring, from the state, any state lands containing timber, mineral, stone, sand, gravel, or other valuable materials, contiguous to or in proximity to such right of way or easement, or any person, firm, or corporation, having since the fifteenth day of June, 1911, acquired, or hereafter acquiring, the timber, mineral, stone, sand, gravel, or other valuable materials upon any state lands contiguous to or in proximity to the lands over which such right of way or easement is operated, proper and reasonable facilities and service for transporting and moving such valuable materials, under reasonable rules and regulations and upon payment of just and reasonable charges therefor, or, if such right of way or other easement is not then in use, shall accord the use of such right of way or easement for transporting and moving such valuable materials, under reasonable rules and regulations and upon the payment of just and reasonable charges therefor. [1982 1st ex.s. c 21 § 169; 1927 c 255 § 80; RRS § 7797-80. Prior: 1911 c 109 § 3. Formerly RCW 79.36.030.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Later enactment: RCW 79.36.250.

79.01.328 Certain state lands subject to easements for removal of valuable materials—Penalty for violation of orders—Reversion of easement. (Effective July 1, 1983.) In case any person, firm or corporation, owning or operating any private railroad, skid road, flume, canal, watercourse or other easement, over and across any state lands, or any lands acquired since the fifteenth day of June, 1911, or hereafter acquired, from the state, subject to the provisions of the preceding sections, shall violate or fail to comply with any rule, regulation or order made by the utilities and transportation commission, after an inquiry and hearing as provided in the preceding section, such person, firm or corporation, shall be subject to a penalty of not to exceed one thousand dollars for each and every violation thereof, and in addition thereto such right of way, private road, skid road, flume, canal, watercourse or other easement and all improvements and structures on such right of way, and connected therewith, shall revert to the state or to the owner of the land over which such right of way is located, and may be recovered in an action instituted in any court of competent jurisdiction. [1982 1st ex.s. c 21 § 170; 1927 c 255 § 82; RRS § 7797–82. Prior: 1911 c 109 § 5. Formerly RCW 79.36.050.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.
Later enactment: RCW 79.36.280.

79.01.340 Right of way for roads and streets over, or for county wharves upon, state lands. (Effective July 1, 1983.) Any county or city or the United States of America or state agency desiring to locate, establish, and construct a road or street over and across any state lands of the state of Washington shall by resolution of the board of county commissioners of such county, or city council or other governing body of such city, or proper agency of the United States of America, or state agency, cause to be filed in the office of the department of natural resources a petition for a right of way for such road or street, setting forth the reasons for the establishment thereof, accompanied by a duly attested copy of a plat made by the county or city engineer or proper agency of the United States of America, or state agency, showing the location of the proposed road or street with reference to the legal subdivisions, or lots and blocks of the official plat, or the lands, over and across which such right of way is desired, the amount of land to be taken and the amount of land remaining in each portion of each legal subdivision or lot or block bisected by such proposed road or street.

Upon the filing of such petition and plat the department of natural resources, if deemed for the best interest of the state to grant the petition, shall cause the land proposed to be taken to be inspected and shall appraise the value of any timber thereon and notify the petitioner of such appraised value.

If there be no timber on the proposed right of way, or upon the payment of the appraised value of any timber thereon, to the department of natural resources in cash, or by certified check drawn upon any bank in this state, or postal money order, except for all rights of way

granted to the department of natural resources on which the timber, if any, shall be sold at public auction or by sealed bid, the department may approve the plat filed with the petition and file and enter the same in the records of his office, and such approval and record shall constitute a grant of such right of way from the state. [1982 1st ex.s. c 21 § 171; 1961 c 73 § 5; 1945 c 145 § 1; 1927 c 255 § 85; Rem. Supp. 1945 § 7797–85. Prior: 1917 c 148 § 9; 1903 c 20 § 1; 1897 c 89 § 35; 1895 c 178 § 46. Formerly RCW 79.36.080.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.368 through 79.01.380 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.384 Right of way for utility pipe lines, transmission lines, etc. (Effective July 1, 1983.) A right of way through, over, and across any state lands or state forest lands, may be granted to any municipal or private corporation, company, association, individual, or the United States of America, constructing or proposing to construct, or which has heretofore constructed, any telephone line, ditch, flume, or pipe line for the domestic water supply of any municipal corporation or transmission line for the purpose of generating or transmitting electricity for light, heat, or power. [1982 1st ex.s. c 21 § 172; 1961 c 73 § 6; 1945 c 147 § 1; 1927 c 255 § 96; Rem. Supp. 1945 § 7797–96. Prior: 1925 c 6 § 1; 1921 c 148 § 1; 1919 c 97 § 1; 1909 c 188 § 1. Formerly RCW 79.36.150.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.396 Right of way for irrigation, diking and drainage purposes. (Effective July 1, 1983.) A right of way through, over and across any state lands is hereby granted to any irrigation district, or irrigation company duly organized under the laws of this state, and to any association, individual, or the United States of America, constructing or proposing to construct an irrigation ditch or pipe line for irrigation, or to any diking and drainage district or any diking and drainage improvement district proposing to construct a dike or drainage ditch. [1982 1st ex.s. c 21 § 173; 1945 c 147 § 4; 1927 c 255 § 99; Rem. Supp. 1945 § 7797–99. Prior: 1917 c 148 § 6; 1907 c 161 § 1. Formerly RCW 79.36.180.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.408 Grant of overflow rights. (Effective July 1, 1983.) The commissioner of public lands shall have the power to grant to any person or corporation the right, privilege, and authority to perpetually back and hold water upon or over any state lands, and overflow such lands and inundate the same, whenever the commissioner shall deem it necessary for the purpose of erecting, constructing, maintaining, or operating any water power plant, reservoir, or works for impounding water for power purposes, irrigation, mining, or other

public use, but no such rights shall be granted until the value of the lands to be overflowed and any damages to adjoining lands of the state, appraised as in the case of an application to purchase such lands, shall have been paid by the person or corporation seeking the grant, and if the construction or erection of any such water power plant, reservoir, or works for impounding water for the purposes heretofore specified, shall not be commenced and diligently prosecuted and completed within such time as the commissioner of public lands may prescribe at the time of the grant, the same may be forfeited by the commissioner of public lands by serving written notice of such forfeiture upon the person or corporation to whom the grant was made, but the commissioner, for good cause shown to his satisfaction, may extend the time within which such work shall be completed. [1982 1st ex.s. c 21 § 174; 1927 c 255 § 102; RRS § 7797-102. Prior: 1915 c 147 §§ 10, 11; 1907 c 125 §§ 1, 2. Formerly RCW 79.36.210.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.
Operating agencies: Chapter 43.52 RCW.

79.01.414 Grant of such easements and rights as applicant may acquire in private lands by eminent domain. (Effective July 1, 1983.) The department of natural resources may grant to any person such easements and rights in state lands or state forest lands as the applicant applying therefor may acquire in privately owned lands through proceedings in eminent domain. No grant shall be made under this section until such time as the full market value of the estate or interest granted together with damages to all remaining property of the state of Washington has been ascertained and safely secured to the state. [1982 1st ex.s. c 21 § 175; 1961 c 73 § 12.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.420 through 79.01.496 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.504 through 79.01.520 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.521 Decodified. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.524 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.525 Increasing rates for lease of harbor areas—Expiration of section (as amended by 1982 c 117). During the term of an existing lease and in issuing or renewing leases or re-leasing harbor areas pursuant to RCW 79.01.520, the annual rental fee for a harbor area lease shall not increase at a rate of more than six percent per year, regardless of the reappraised value of the harbor area unless the reappraisal is conducted by a professionally designated real estate appraiser with

no pecuniary interest in the property to be appraised and who uses local comparable land values. This section shall expire and have no further legal effect after July 1, 1982. [1982 c 117 § 2; 1979 ex.s. c 97 § 2.]

79.01.525 Increasing rates for lease of harbor areas—Expiration of section (as amended by 1982 1st ex.s. c 21). From April 3, 1982, until July 1, 1983, the annual rental fee for an existing lease, and renewal lease or re-lease of tidelands, shorelands, beds of navigable waters, waterways and harbor areas shall not increase at a rate of more than six percent per year beyond the rental fee in effect on January 1, 1981, for such existing lease, renewed lease or re-lease. Any new lease issued after April 3, 1982, shall be at a rental rate of not more than six percent per year above the rental rates in effect on January 1, 1981, for comparable state-owned aquatic lands leased for similar purposes. This rate shall be in effect from the effective date of the lease until July 1, 1983. This section does not apply to geoduck harvesting leases, clam harvesting leases or oyster bed leases which are established by a competitive bid process. When state aquatic lands and harbor areas are used or leased for a dock and are used only for personal recreational use by the upland owner, no rent or fee shall be charged in addition to any rent or fee now being paid by an upland owner. This section shall expire and have no further legal effect after July 1, 1983. [1982 1st ex.s. c 21 § 176; 1979 ex.s. c 97 § 2.]

Reviser's note: RCW 79.01.525 was amended twice during the 1982 legislative sessions, each without reference to the other.

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

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.528 through 79.01.608 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.716 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.740 Reconsideration of official acts. (Effective July 1, 1983.) The department of natural resources may review and reconsider any of its official acts relating to state lands until such time as a lease, contract, or deed shall have been made, executed, and finally issued, and the department may recall any lease, contract, or deed issued for the purpose of correcting mistakes or errors, or supplying omissions. [1982 1st ex.s. c 21 § 177; 1927 c 255 § 195; RRS § 7797-195. Formerly RCW 43.65.080.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

79.01.770 School districts, institutions of higher education, purchase of leased lands with improvements by—Authorized—Exception—Price. Notwithstanding the provisions of RCW 79.01.096 or any other provision of law, any school district or institution of higher education, that on January 1, 1974 was leasing land granted to the state by the United States and on which land such district or institution has placed improvements as defined in RCW 79.01.036 shall be afforded the opportunity by the department of natural resources at any time to purchase such land, excepting land over which the department retains management responsibilities, for the purposes of schoolhouse construction and/or necessary supporting facilities or structures

at the appraised value thereof less the value that any improvements thereon added to the value of the land itself at the time of the sale thereof. [1982 1st ex.s. c 31 § 1; 1980 c 115 § 8; 1971 ex.s. c 200 § 2.]

Severability—1980 c 115: See note following RCW 28A.58.040.

Severability—1971 ex.s. c 200: See note following RCW 79.01.096.

79.01.786 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.01.788 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 79.16

TIDELANDS, SHORELANDS, AND HARBOR AREAS

Sections

79.16.130	through 79.16.176 Repealed. (Effective July 1, 1983.)
79.16.180	Disposition of rentals from harbor areas and tidelands—Expiration of section.
79.16.180	Repealed. (Effective July 1, 1983.)
79.16.190	Repealed. (Effective July 1, 1983.)
79.16.325	Repealed. (Effective July 1, 1983.)
79.16.326	Repealed. (Effective July 1, 1983.)
79.16.375	through 79.16.380 Repealed. (Effective July 1, 1983.)
79.16.400	through 79.16.410 Repealed. (Effective July 1, 1983.)
79.16.430	through 79.16.590 Repealed. (Effective July 1, 1983.)

79.16.130 through 79.16.176 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.16.180 Disposition of rentals from harbor areas and tidelands—Expiration of section. The rents hereinafter to be paid under existing or future leases of harbor areas and also of tidelands belonging to the state of Washington, the proceeds of which are not otherwise directed to a particular account shall be hereafter disposed of as follows:

In cases where the leased harbor area or tideland is situated within the territorial limits of a port district already created or to be hereafter created under the laws of the state of Washington, twenty-five percent of the rents received for such cases shall be paid by the state treasurer to the county treasurer of the county wherein such port district is situated for the use of such port district and go into a special fund to be expended only for harbor or waterfront improvement purposes and the remaining seventy-five percent shall be deposited in the capitol purchase and development account of the general fund of the state treasury; except that in cases where the port district itself shall have presently constructed or shall now own existing structures or improvements situated upon leased harbor areas, or tidelands, the entire rentals of such improved area or tideland shall go to

such port district: *Provided*, That whenever the port district shall hereafter construct improvements on such leased harbor areas or tideland the rental attributable to such improvements shall go to the port district. In all other cases twenty-five percent of the rents shall be paid by the state treasurer into the county treasury of the county in which the leased harbor areas or tidelands are situated, the same to go into a special fund known as the "harbor improvement fund", and to be disbursed only for harbor or harbor improvement purposes; and the remaining seventy-five percent shall be deposited in the capitol purchase and development account of the general fund of the state treasury. In cases where any leased harbor area or tideland is situated within the limits of any incorporated city or town and is not embraced within the area of any port district, the county commissioners of the county shall allocate the funds received from the lease thereof to the municipal authorities of such city or town, to be expended by said authorities for harbor or waterfront purposes. The state treasurer being hereby authorized and directed to make such payments to the respective county treasurers for the use of such port districts or counties, as the case may be, on the first days of July and January of each year, of all moneys in his hands on such dates payable under the terms of this section to such port district and counties respectively.

This section expires July 1, 1983. [1982 2nd ex.s. c 8 § 1; 1967 ex.s. c 105 § 2; 1937 c 115 § 1; 1913 c 170 § 1; RRS § 8016.]

Severability—1967 ex.s. c 105: See RCW 79.24.646.

79.16.180 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.16.190 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.16.325 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.16.326 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.16.375 through 79.16.380 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.16.400 through 79.16.410 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.16.430 through 79.16.590 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 79.20
OYSTER LANDS

Sections

79.20.090 through 79.20.110 Repealed. (Effective July 1, 1983.)
79.20.150 through 79.20.180 Repealed. (Effective July 1, 1983.)

79.20.090 through 79.20.110 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.20.150 through 79.20.180 Repealed. (Effective July 1, 1983.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 79.24
CAPITOL BUILDING LANDS

Sections

EAST CAPITOL SITE

79.24.580 Deposit of proceeds from sale of tide or shore lands or valuable materials therefrom—"Capitol purchase and development account" created.

EAST CAPITOL SITE—1967 BOND ISSUE

79.24.638 Payment of principal and interest—State building bond redemption fund—Reserve—Owner's remedies—Disposition of proceeds of sale.

EAST CAPITOL SITE

79.24.580 Deposit of proceeds from sale of tide or shore lands or valuable materials therefrom—"Capitol purchase and development account" created. All moneys received by the state from the sale of tidelands, and shorelands, and from the sale of valuable material from tidelands, shorelands, beds of navigable waters and harbor areas and from the lease of shorelands and beds of navigable waters, shall be deposited in the capitol purchase and development account of the general fund, the creation of which is hereby authorized or, in the event that revenue bonds are issued as authorized by RCW 79.24.630 through 79.24.647, into the state building bond redemption fund pursuant to RCW 79.24.638. [1982 2nd ex.s. c 8 § 4; 1969 ex.s. c 273 § 12; 1967 ex.s. c 105 § 3; 1961 c 167 § 9.]

Severability—1969 ex.s. c 273: See RCW 79.24.647.

EAST CAPITOL SITE—1967 BOND ISSUE

79.24.638 Payment of principal and interest—State building bond redemption fund—Reserve—Owner's remedies—Disposition of proceeds of sale. For the purpose of paying the principal and interest of said bonds as the same shall become due, or as said bonds become callable at the option of the capitol committee, there is created a fund to be denominated the "state building bond redemption fund". While any of said bonds remain outstanding and unpaid, it shall be the duty of the capitol committee on or before June 30th

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of each year to determine the amount that will be required for the redemption of bonds and the payment of interest during the twelve-month period of the next fiscal year, and certify said amount to the state treasurer in writing. The state treasurer shall forthwith and thereafter during said twelve-month period and at least fifteen days prior to each interest and principal payment date deposit into the state building bond redemption fund that portion of all receipts necessary to pay the principal and interest on the bonds issued that would otherwise be deposited in the general fund—capitol purchase and development account and transfer such additional amounts from the general fund—capitol purchase and development account as may be necessary until the amount certified to said treasurer by the said capitol committee has accrued to the state building bond redemption fund. Nothing in RCW 79.24.630 through 79.24.642, 79.24.645, 79.24.647, 79.24.570 and 79.24.580 shall prohibit the use of such receipts from leases and contracts of sale for any other lawfully authorized purpose when not required for the redemption and payment of interest and meeting the covenant requirements of the bonds authorized herein.

On June 30, 1983, the state treasurer shall transfer from the capitol purchase and development account to the general fund all moneys in excess of seven hundred thousand dollars.

In addition to certifying and providing for the annual amounts required to pay the principal and interest of said bonds, the capitol committee may, under such terms and conditions and at such times and in such amounts as may be found necessary to insure the sale of said bonds, provide for additional payments into the state building bond redemption fund to be held as a reserve to secure the payment of the principal and interest of such bonds.

The owner and holder of any of said bonds or the trustee for any of said bonds may by mandamus or other appropriate proceeding require and compel the deposit and payment of funds as directed herein.

The proceeds from the sale of the bonds hereby authorized shall be paid into the general fund—capitol purchase and development account. [1982 2nd ex.s. c 8 § 5; 1969 ex.s. c 273 § 7; 1967 ex.s. c 105 § 8.]

Chapter 79.44

ASSESSMENTS AGAINST PUBLIC LANDS

Sections

79.44.010 Public lands subject to local assessments. (Effective July 1, 1983.)

79.44.010 Public lands subject to local assessments. (Effective July 1, 1983.) All lands, including school lands, granted lands, escheated lands, or other lands, held or owned by the state of Washington in fee simple (in trust or otherwise), situated within the limits of any assessing district in this state, may be assessed and charged for the cost of local or other improvements specially benefiting such lands which may be ordered by the proper authorities of any such assessing district and may

be assessed by any irrigation district to the same extent as private lands within the district are assessed: *Provided*, That the leasehold, contractual, or possessory interest of any person, firm, association, or private or municipal corporation in any such lands shall be charged and assessed in the proportional amount such leasehold, contractual, or possessory interest is benefited: *Provided, further*, That no lands of the state shall be included within an irrigation district except as provided in RCW 87.03.025 and 89.12.090. [1982 1st ex.s. c 21 § 178; 1963 c 20 § 2; 1919 c 164 § 1; RRS § 8125. Cf. 1909 c 154 §§ 1, 4.]

Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.900 through 79.96.905.

Chapter 79.64

FUNDS FOR MANAGING AND ADMINISTERING LANDS

Sections

79.64.040 Deductions from proceeds of all transactions authorized—Limitations.

79.64.040 Deductions from proceeds of all transactions authorized—Limitations. The board shall determine the amount deemed necessary in order to achieve the purposes of this chapter and shall provide by rule for the deduction of this amount from the gross proceeds of all leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department and affecting public lands. Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204 prior to December 1, 1981, which have not been subjected to deduction under this section are not subject to deduction under this section. The deductions authorized under this section shall in no event exceed twenty-five percent of the total sum received by the department in connection with any one transaction pertaining to public lands other than second class tide and shore lands and the beds of navigable waters, and fifty percent of the total gross proceeds received by the department pertaining to second class tide and shore lands and the beds of navigable waters. [1981 2nd ex.s. c 4 § 3; 1971 ex.s. c 224 § 2; 1967 ex.s. c 63 § 2; 1961 c 178 § 4.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

Chapter 79.90

AQUATIC LANDS—IN GENERAL

(Effective July 1, 1983)

Sections

79.90.010 "Aquatic lands".
 79.90.015 "Outer harbor line".
 79.90.020 "Harbor area".
 79.90.025 "Inner harbor line".
 79.90.030 "First class tidelands".
 79.90.035 "Second class tidelands".
 79.90.040 "First class shorelands".
 79.90.045 "Second class shorelands".

79.90.050 "Beds of navigable waters".
 79.90.055 "Improvements".
 79.90.060 "Valuable materials".
 79.90.065 "Person".
 79.90.070 Harbor line commission.
 79.90.080 Board of natural resources—Records—Rules and regulations.
 79.90.090 Sale and lease of state-owned aquatic lands—Blank forms of applications.
 79.90.100 Who may purchase or lease—Application—Fees.
 79.90.110 Date of sale limited by time of appraisal.
 79.90.120 Survey to determine areas subject to sale or lease.
 79.90.130 Valuable materials sold separately—Valuable materials from Columbia river—Agreements with Oregon.
 79.90.140 Road material—Sale to public authorities—Dispositions of proceeds.
 79.90.150 Material removed for channel or harbor improvement or flood control—Use for public purpose.
 79.90.160 Dredge spoils—Sale by certain landowners.
 79.90.170 Sale procedure—Fixing date, place, and time of sale—Notice—Publication and posting—Direct sale to applicant without notice, when.
 79.90.180 Sale procedure—Pamphlet list of lands or materials—Notice of sale—Proof of publishing and posting.
 79.90.190 Sale procedure—Additional advertising expense.
 79.90.200 Sale procedure—Place of sale—Hours—Reoffer—Continuance.
 79.90.210 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.
 79.90.220 Sale procedure—Conduct of sales—Deposits—Bid bonds—Memorandum of purchase.
 79.90.230 Sale procedure—Readvertisement of lands not sold.
 79.90.240 Sale procedure—Confirmation of sale.
 79.90.250 Sale procedure—Terms of payment—Deferred payments, rate of interest.
 79.90.260 Sale procedure—Certificate to governor of payment in full—Deed.
 79.90.270 Sale procedure—Reservation in contract.
 79.90.280 Sale procedure—Form of contract—Forfeiture—Extension of time.
 79.90.290 Bill of sale for valuable material sold separately.
 79.90.300 Sale of rock, gravel, sand and silt.
 79.90.310 Sale of rock, gravel, sand and silt—Application—Terms of lease or contract—Bond—Payment—Reports.
 79.90.320 Sale of rock, gravel, sand and silt—Investigation, audit of books of person removing.
 79.90.330 Leases for prospecting and contracts for mining of valuable minerals and specific materials from any aquatic lands.
 79.90.340 Option contracts for prospecting and leases for mining and extraction of coal from aquatic lands.
 79.90.350 Subdivision of leases—Fee.
 79.90.360 Effect of mistake or fraud.
 79.90.370 Assignment of contracts or leases.
 79.90.380 Abstracts of state-owned aquatic lands.
 79.90.390 Distraint or sale of improvements for taxes.
 79.90.400 Aquatic lands—Court review of actions.
 79.90.410 Reconsideration of official acts.
 79.90.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21.

79.90.010 "Aquatic lands". Whenever used in chapters 79.90 through 79.96 RCW the term "aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters. [1982 1st ex.s. c 21 § 1.]

79.90.015 "Outer harbor line". Whenever used in chapters 79.90 through 79.96 RCW the term "outer harbor line" means a line located and established in

navigable waters as provided in section 1 of Article XV of the state Constitution, beyond which the state shall never sell or lease any rights whatever to private persons. [1982 1st ex.s. c 21 § 2.]

79.90.020 "Harbor area". Whenever used in chapters 79.90 through 79.96 RCW the term "harbor area" means the area of navigable waters determined as provided in section 1 of Article XV of the state Constitution, which shall be forever reserved for landings, wharves, streets and other conveniences of navigation and commerce. [1982 1st ex.s. c 21 § 3.]

79.90.025 "Inner harbor line". Whenever used in chapters 79.90 through 79.96 RCW the term "inner harbor line" means a line located and established in navigable waters between the line of ordinary high tide or ordinary high water and the outer harbor line, constituting the inner boundary of the harbor area. [1982 1st ex.s. c 21 § 4.]

79.90.030 "First class tidelands". Whenever used in chapters 79.90 through 79.96 RCW the term "first class tidelands" means the shores of navigable tidal waters belonging to the state, lying within or in front of the corporate limits of any city, or within one mile thereof upon either side and between the line of ordinary high tide and the inner harbor line; and within two miles of the corporate limits on either side and between the line of ordinary high tide and the line of extreme low tide. [1982 1st ex.s. c 21 § 5.]

79.90.035 "Second class tidelands". Whenever used in chapters 79.90 through 79.96 RCW the term "second class tidelands" means the shores of navigable tidal waters belonging to the state, lying outside of and more than two miles from the corporate limits of any city, and between the line of ordinary high tide and the line of extreme low tide. [1982 1st ex.s. c 21 § 6.]

79.90.040 "First class shorelands". Whenever used in chapters 79.90 through 79.96 RCW the term "first class shorelands" means the shores of a navigable lake or river belonging to the state, not subject to tidal flow, lying between the line of ordinary high water and the line of navigability, or inner harbor line where established and within or in front of the corporate limits of any city or within two miles thereof upon either side. [1982 1st ex.s. c 21 § 7.]

79.90.045 "Second class shorelands". Whenever used in chapters 79.90 through 79.96 RCW the term "second class shorelands" means the shores of a navigable lake or river belonging to the state, not subject to tidal flow, lying between the line of ordinary high water and the line of navigability, and more than two miles from the corporate limits of any city. [1982 1st ex.s. c 21 § 8.]

79.90.050 "Beds of navigable waters". Whenever used in chapters 79.90 through 79.96 RCW, the term "beds of navigable waters" means those lands lying waterward of and below the line of navigability on rivers

and lakes not subject to tidal flow, or extreme low tide mark in navigable tidal waters, or the outer harbor line where harbor area has been created. [1982 1st ex.s. c 21 § 9.]

79.90.055 "Improvements". Whenever used in chapters 79.90 through 79.96 RCW the term "improvements" when referring to aquatic lands means anything considered a fixture in law placed within, upon or attached to such lands that has changed the value of those lands, or any changes in the previous condition of the fixtures that changes the value of the land. [1982 1st ex.s. c 21 § 10.]

79.90.060 "Valuable materials". Whenever used in chapters 79.90 through 79.96 RCW the term "valuable materials" when referring to aquatic lands means any product or material within or upon said lands, such as forest products, forage, stone, gravel, sand, peat, agricultural crops, and all other materials of value except mineral, coal, petroleum, and gas as provided for under chapters 79.01 and 79.14 RCW. [1982 1st ex.s. c 21 § 11.]

79.90.065 "Person". Whenever used in chapters 79.90 through 79.96 RCW the term "person" means any private individual, partnership, association, organization, cooperative, firm, corporation, the state or any agency or political subdivision thereof, any public or municipal corporation, or any unit of government, however designated. [1982 1st ex.s. c 21 § 12.]

79.90.070 Harbor line commission. The board of natural resources shall constitute the commission provided for in section 1 of Article XV of the state Constitution to locate and establish outer harbor lines beyond which the state shall never sell or lease any rights whatever to private persons, and to locate and establish the inner harbor line, thereby defining the width of the harbor area between such harbor lines. The harbor area shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce. [1982 1st ex.s. c 21 § 13.]

79.90.080 Board of natural resources—Records—Rules and regulations. The board of natural resources acting as the harbor line commission shall keep a full and complete record of its proceedings relating to the establishment of harbor lines and the determination of harbor areas. The board shall have the power from time to time to make and enforce rules and regulations for the carrying out of the provisions of chapters 79.90 through 79.96 RCW relating to its duties not inconsistent with law. [1982 1st ex.s. c 21 § 14.]

79.90.090 Sale and lease of state-owned aquatic lands—Blank forms of applications. The department of natural resources shall prepare, and furnish to applicants, blank forms of applications for the purchase of tide or shore lands belonging to the state, otherwise permitted by RCW 79.94.150 to be sold, and the purchase of valuable material situated thereon, and the lease of

tidelands, shorelands and harbor areas belonging to the state, which forms shall contain such instructions as will inform and aid the applicants. [1982 1st ex.s. c 21 § 15.]

79.90.100 Who may purchase or lease—Application—Fees. Any person desiring to purchase any tide or shore lands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, or to purchase any valuable material situated thereon, or to lease any aquatic lands, shall file with the department of natural resources an application, on the proper form which shall be accompanied by reasonable fees to be prescribed by the board of natural resources in its rules and regulations, in an amount sufficient to defray the cost of performing or otherwise providing for the processing, review, or inspection of the applications or activities permitted pursuant to the applications for each category of services performed. These fees shall be credited to the resource management cost account (RMCA) fund in the general fund. [1982 1st ex.s. c 21 § 16.]

79.90.110 Date of sale limited by time of appraisal. In no case shall any tide or shore lands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, or any valuable materials situated within or upon any tidelands, shorelands or beds of navigable waters belonging to the state, be offered for sale unless the same shall have been appraised by the department of natural resources within ninety days prior to the date fixed for the sale. [1982 1st ex.s. c 21 § 17.]

79.90.120 Survey to determine areas subject to sale or lease. The department of natural resources may cause any aquatic lands to be surveyed for the purpose of ascertaining and determining the area subject to sale or lease. [1982 1st ex.s. c 21 § 18.]

79.90.130 Valuable materials sold separately—Valuable materials from Columbia river—Agreements with Oregon. Valuable materials situated within or upon tidelands, shorelands, or the beds of navigable waters belonging to the state may be sold separately from the land, when in the judgment of the department of natural resources, it is in the best interests of the state to sell the same. When application is made for the purchase of any valuable material, situated within or upon aquatic lands, the department shall inspect and appraise the value of the material applied for: *Provided*, That no valuable material shall be sold for less than the appraised value thereof: *Provided further*, That the department is authorized and empowered to confer with and enter into any agreements with the public authorities of the state of Oregon, which in the judgment of the department will assist the state of Washington and the state of Oregon in securing the maximum revenues for sand, gravel or other valuable materials taken from the bed of the Columbia river where said river forms the boundary line between said states. [1982 1st ex.s. c 21 § 19.]

79.90.140 Road material—Sale to public authorities—Dispositions of proceeds. Any county, city, or

town desiring to purchase any stone, rock, gravel, or sand upon any aquatic lands to be used in the construction, maintenance, or repair of any public street, road, or highway within such county, city, or town, may file with the department of natural resources an application for the purchase thereof, which application shall set forth the quantity and kind of material desired to be purchased, the location thereof, and the name or other designation and location of the street, road, or highway upon which the material is to be used. The department upon the receipt of such an application is authorized to sell said material in such manner and upon such terms as deemed advisable and in the best interests of the state, but for not less than the fair market value thereof to be appraised by the department. The proceeds of any such sale shall be paid into the state treasury and credited to the fund to which the proceeds of the sale would belong. [1982 1st ex.s. c 21 § 20.]

79.90.150 Material removed for channel or harbor improvement or flood control—Use for public purpose. When gravel, rock, sand, silt or other material from any aquatic lands is removed by any public agency or under public contract for channel or harbor improvement, or flood control, use of such material may be authorized by the department of natural resources for a public purpose on land owned or leased by the state or any municipality, county, or public corporation: *Provided*, That when no public land site is available for deposit of such material, its deposit on private land with the landowner's permission is authorized and may be designated by the department of natural resources to be for a public purpose. Prior to removal and use, the state agency, municipality, county, or public corporation contemplating or arranging such use shall first obtain written permission from the department of natural resources. No payment of royalty shall be required for such gravel, rock, sand, silt, or other material used for such public purpose, but a charge will be made if such material is subsequently sold or used for some other purpose: *Provided*, That the department may authorize such public agency or private landowner to dispose of such material without charge when necessary to implement disposal of material. No charge shall be required for any use of the material obtained under the provisions of this chapter when used solely on an authorized site. Nothing in this section shall repeal or modify the provisions of RCW 75.20.100 or eliminate the necessity of obtaining a permit for such removal from other state or federal agencies as otherwise required by law. [1982 1st ex.s. c 21 § 21.]

79.90.160 Dredge spoils—Sale by certain landowners. The legislature finds and declares that, due to the extraordinary volume of material washed down onto state-owned beds and shorelands in the Toutle river, Coweeman river, and portions of the Cowlitz river, the dredge spoils placed upon adjacent privately owned property in such areas, if further disposed, will be of nominal value to the state and that it is in the best interests of the state to allow further disposal without charge.

All dredge spoil or materials removed from the state-owned beds and shores of the Toutle river, Cowlitz river and that portion of the Cowlitz river from two miles above the confluence of the Toutle river to its mouth deposited on adjacent private lands during the years 1980 through December 31, 1985, as a result of dredging of these rivers for navigation and flood control purposes may be sold, transferred, or otherwise disposed of by owners of such lands without the necessity of any charge by the department of natural resources and free and clear of any interest of the department of natural resources of the state of Washington. [1982 1st ex.s. c 21 § 22.]

79.90.170 Sale procedure—Fixing date, place, and time of sale—Notice—Publication and posting—Direct sale to applicant without notice, when. When the department of natural resources shall have decided to sell any tidelands or shorelands belonging to the state, otherwise permitted by RCW 79.94.150 to be sold, or any valuable materials situated within or upon any aquatic lands, it shall be the duty of the department to forthwith fix the date, place, and the time of sale, and no sale shall be had on any day which is a legal holiday.

The department shall give notice of the sale by advertisement published once a week for four consecutive weeks immediately preceding the date fixed for sale in said notice, in at least one newspaper published and of general circulation in the county in which the whole or any part of any lot, block, or tract of land to be sold (or the valuable materials thereon) is to be sold is situated, and by causing a copy of said notice to be posted in a conspicuous place in the department's Olympia office and the area headquarters administering such sale, and in the office of the county auditor of such county; which notice shall specify the place and time of sale, the appraised value thereof, and describe with particularity each parcel of land to be sold, or from which valuable materials are to be sold, and in the case of material sales the estimated volume thereof, and specify that the terms of sale will be posted in the area headquarters and the department's Olympia office: *Provided*, That any sale of valuable material of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash at the appraised value without notice or advertising. [1982 1st ex.s. c 21 § 23.]

79.90.180 Sale procedure—Pamphlet list of lands or materials—Notice of sale—Proof of publishing and posting. The department of natural resources shall cause to be printed a list of all tidelands and shorelands belonging to the state, otherwise permitted by RCW 79.94.150 to be sold, or valuable materials contained within or upon aquatic lands, and the appraised value thereof, that are to be sold in the several counties of the state, said lists to be issued at least four weeks prior to the date of any sale of the lands and materials enumerated thereon, such materials to be listed under the name of the county wherein located, in alphabetical order giving the appraised values, the character of the same and

such other information as may be of interest to prospective buyers. Said department shall cause to be distributed to the auditor of each county in the state a sufficient number of such lists to supply the demands made upon them respectively as reported by such auditors. And said county auditors shall keep the list so furnished in a conspicuous place or receptacle on the counter of the public office of their respective departments, and, when requested so to do, shall mail copies of such lists to residents of their counties. The department shall retain for free distribution in its office in Olympia and the area offices sufficient copies of said lists, to be kept in a conspicuous place or receptacle on the counter of the general office of the department of natural resources, and the areas, and, when requested so to do, shall mail copies of said list as issued to any applicant therefor. Proof of publication of the notice of sale shall be made by affidavit of the publisher, or person in charge, of the newspaper publishing the same and proof of posting the notice of sale and the receipt of the lists shall be made by certificate of the county auditor which shall forthwith be sent to and filed with the department of natural resources. [1982 1st ex.s. c 21 § 24.]

79.90.190 Sale procedure—Additional advertising expense. The department of natural resources is authorized to expend any sum in additional advertising of such sale as shall be determined to be in the best interests of the state. [1982 1st ex.s. c 21 § 25.]

79.90.200 Sale procedure—Place of sale—Hours—Reoffer—Continuance. When sales are made by the county auditor, they shall take place at such place on county property as the county legislative authority may direct in the county in which the whole, or the greater part, of each lot, block, or tract of land, or the material thereon, to be sold, is situated. All other sales shall be held at the departmental area offices having jurisdiction over the respective sales. All sales shall be conducted between the hours of ten o'clock a.m. and four o'clock p.m.

Any sale which has been offered, and for which there are no bids received shall not be reoffered until it has been readvertised as specified in RCW 79.90.170, 79.90.180, and 79.90.190. If all sales cannot be offered within the specified time on the advertised date, the sale shall continue on the following day between the hours of ten o'clock a.m. and four o'clock p.m. [1982 1st ex.s. c 21 § 26.]

79.90.210 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 tidelands and shorelands belonging to the state, otherwise permitted by RCW 79.94.150 to be sold, 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 provided, and no land or materials shall be sold for less

than their appraised value: *Provided*, That when valuable material has been appraised at an amount not exceeding twenty thousand dollars, the department of natural resources, 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 department may prescribe, after the department 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 the property to be sold: *Provided further*, That any sale of valuable material on aquatic lands of an appraised value of one thousand dollars or less may be sold directly to the applicant for cash without notice or advertising. [1982 1st ex.s. c 21 § 27.]

79.90.220 Sale procedure—Conduct of sales—Deposits—Bid bonds—Memorandum of purchase. Sales by public auction under this chapter shall be conducted under the direction of the department of natural resources, by its authorized representative or by the county auditor of the county in which the sale is held. The department's representative and the county auditor are hereinafter referred to as auctioneers. On or before the time specified in the notice of sale each bidder shall deposit with the auctioneer, in cash or by certified check, cashier's check, or postal money order payable to the order of the department of natural resources, or by bid guarantee in the form of bid bond acceptable to the department, an amount equal to the deposit specified in the notice of sale. The deposit shall include a specified amount of the appraised price for the valuable materials offered for sale, together with any fee required by law for the issuance of contracts or bills of sale. Said deposit may, when prescribed in the notice of sale, be considered an opening bid of an amount not less than the minimum appraised price established in the notice of sale. The successful bidder's deposit will be retained by the auctioneer and the difference, if any, between the deposit and the total amount due shall on the day of the sale be paid in cash, certified check, cashier's check, draft, postal money order or by personal check made payable to the department. If a bid bond is used, the share of the total deposit due guaranteed by the bid bond shall, within ten days of the day of sale, be paid in cash, certified check, cashier's check, draft or postal money order payable to the department. Other deposits, if any, shall be returned to the respective bidders at the conclusion of each sale. The auctioneer shall deliver to the purchaser a memorandum of his purchase containing a description of the land or materials purchased, the price bid, and the terms of the sale. The auctioneer shall at once send to the department the cash, certified check, cashier's check, draft, postal money order, or bid guarantee received from the purchaser, and a copy of the memorandum delivered to the purchaser, together with such additional report of his proceedings with reference to such sales as may be required by the department. [1982 1st ex.s. c 21 § 28.]

79.90.230 Sale procedure—Readvertisement of lands not sold. If any tide or shore land, when otherwise permitted under RCW 79.94.150 to be sold, so offered for sale be not sold, the same may again be advertised for sale, as provided in this chapter, whenever in the opinion of the department of natural resources it shall be expedient so to do, and such land shall be again advertised and offered for sale as herein provided, whenever any person shall apply to the commissioner in writing to have such land offered for sale and shall agree to pay, at least the appraised value thereof and shall deposit with the department at the time of making such application a sufficient sum of money to pay the cost of advertising such sale. [1982 1st ex.s. c 21 § 29.]

79.90.240 Sale procedure—Confirmation of sale. If no affidavit showing that the interest of the state in such sale was injuriously affected by fraud or collusion, shall be filed with the commissioner of public lands within ten days from the receipt of the report of the auctioneer conducting the sale of any tidelands or shorelands belonging to the state, otherwise permitted by RCW 79.94.150 to be sold, or valuable materials located within or upon any aquatic lands, and it shall appear from such report that the sale was fairly conducted, that the purchaser was the highest bidder at such sale, and that his bid was not less than the appraised value of the property sold. If the commissioner shall be satisfied that the lands, or material, sold would not, upon being readvertised and offered for sale, sell for at least ten percent more than the price at which it shall have been sold, and the payment required by law to be made at the time of making the sale, has been made, and that the best interests of the state may be subserved thereby, the commissioner shall enter upon his records a confirmation of sale and thereupon issue to the purchaser a contract of sale or bill of sale as the case may be, as is provided for in this chapter. [1982 1st ex.s. c 21 § 30.]

79.90.250 Sale procedure—Terms of payment—Deferred payments, rate of interest. All tidelands and shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, shall be sold on the following terms: One-tenth to be paid on the date of sale; one-tenth to be paid one year from the date of the issuance of the contract of sale; and one-tenth annually thereafter until the full purchase price has been made; but any purchaser may make full payment at any time. All deferred payments shall draw interest at such rate as may be fixed, from time to time, by rule adopted by the board of natural resources, and the rate of interest, as so fixed at the date of each sale, shall be stated in all advertising for and notice of said sale and in the contract of sale. The first installment of interest shall become due and payable one year after the date of the contract of sale and thereafter all interest shall become due and payable annually on said date, and all remittances for payment of either principal or interest shall be forwarded to the department of natural resources. [1982 1st ex.s. c 21 § 31.]

79.90.260 Sale procedure—Certificate to governor of payment in full—Deed. When the entire purchase price of any tidelands or shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, shall have been fully paid, the department of natural resources shall certify such fact to the governor, and shall cause a deed signed by the governor and attested by the secretary of state, with the seal of the state attached thereto, to be issued to the purchaser and to be recorded in the office of the commissioner of public lands, and no fee shall be required for any deed issued by the governor other than the fee provided for in this chapter. [1982 1st ex.s. c 21 § 32.]

79.90.270 Sale procedure—Reservation in contract. Each and every contract for the sale of (and each deed to) tidelands or shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, shall contain the reservation contained in RCW 79.01.224. [1982 1st ex.s. c 21 § 33.]

79.90.280 Sale procedure—Form of contract—Forfeiture—Extension of time. The purchaser of tidelands or shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, except in cases where the full purchase price is paid at the time of the purchase, shall enter into and sign a contract with the state to be signed by the commissioner of public lands on behalf of the state, with his seal of office attached, and in a form to be prescribed by the attorney general, and under those terms and conditions provided in RCW 79.01.228. [1982 1st ex.s. c 21 § 34.]

79.90.290 Bill of sale for valuable material sold separately. When valuable materials shall have been sold separate from aquatic lands and the purchase price is paid in full, the department of natural resources shall cause a bill of sale, signed by the commissioner of public lands and attested by the seal of his office, setting forth the time within which such material shall be removed. The bill of sale shall be issued to the purchaser and shall be recorded in the office of the commissioner of public lands, upon the payment of the fee provided for in this chapter. [1982 1st ex.s. c 21 § 35.]

79.90.300 Sale of rock, gravel, sand and silt. The department of natural resources, upon application by any person, may enter into a contract or lease providing for the removal and sale of rock, gravel, sand and silt located within or upon beds of navigable waters, or upon any tidelands or shorelands belonging to the state and providing for payment to be made therefor by such royalty as the department may fix. [1982 1st ex.s. c 21 § 36.]

79.90.310 Sale of rock, gravel, sand and silt—Application—Terms of lease or contract—Bond—Payment—Reports. Each application made pursuant to RCW 79.90.300 shall set forth the estimated quantity and kind of materials desired to be removed

and shall be accompanied by a map or plat showing the area from which the applicant wishes to remove such materials. The department of natural resources may in its discretion include in any lease or contract entered into pursuant to RCW 79.90.300 through 79.90.320, such terms and conditions deemed necessary by the department to protect the interests of the state. In each such lease or contract the department shall provide for a right of forfeiture by the state, upon a failure to operate under the lease or contract or pay royalties or rent for periods therein stipulated, and the department shall require a bond with a surety company authorized to transact a surety business in this state, as surety to secure the performance of the terms and conditions of such contract or lease including the payment of royalties. The right of forfeiture shall be exercised by entry of a declaration of forfeiture in the records of the department. The amount of rock, gravel, sand or silt taken under the contract or lease shall be reported monthly by the purchaser to the department and payment therefor made on the basis of the royalty provided in the lease or contract. [1982 1st ex.s. c 21 § 37.]

79.90.320 Sale of rock, gravel, sand and silt—Investigation, audit of books of person removing. The department of natural resources may inspect and audit books, contracts, and accounts of each person removing rock, gravel, sand, or silt pursuant to any such lease or contract under RCW 79.90.300 and 79.90.310 and make such other investigation and secure or receive any other evidence necessary to determine whether or not the state is being paid the full amount payable to it for the removal of such materials. [1982 1st ex.s. c 21 § 38.]

79.90.330 Leases for prospecting and contracts for mining of valuable minerals and specific materials from any aquatic lands. The department of natural resources shall have the power to execute leases, for prospecting, and contracts for the mining of valuable minerals and specific materials, except hydrocarbons, upon and from any aquatic lands belonging to the state, or which have been sold and the minerals thereon reserved by the state, to any person, in tracts of not to exceed the equivalent of one section and not less than the equivalent of one-sixteenth of a section in legal subdivisions according to the United States government surveys. The procedures contained at RCW 79.01.616 through 79.01.650, inclusive, shall apply thereto. [1982 1st ex.s. c 21 § 39.]

79.90.340 Option contracts for prospecting and leases for mining and extraction of coal from aquatic lands. The department of natural resources is authorized to execute option contracts for prospecting purposes and leases for the mining and extraction of coal from any aquatic lands owned by the state or from which it may hereafter acquire title, or from any aquatic lands sold or leased by the state the minerals of which have been reserved by the state. The procedures contained at RCW 79.01.652 through 79.01.696, inclusive, shall apply thereto. [1982 1st ex.s. c 21 § 40.]

79.90.350 Subdivision of leases—Fee. Whenever the holder of any contract to purchase any tidelands or shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, or the holder of any lease of any such lands, except for mining of valuable minerals, or coal, or extraction of petroleum or gas, shall surrender the same to the department of natural resources with the request to have it divided into two or more contracts or leases, the department may divide the same and issue new contracts, or leases: *Provided*, That no new contract or lease shall issue while there is due and unpaid any rental, taxes, or assessments on the land held under such contract or lease, nor in any case where the department is of the opinion that the state's security would be impaired or endangered by the proposed division. For all such new contracts, or leases, a fee as determined by the board of natural resources for each new contract or lease issued, shall be paid by the applicant and such fee shall be paid into the state treasury to the resource management cost account in the general fund, pursuant to RCW 79.64.020. [1982 1st ex.s. c 21 § 41.]

79.90.360 Effect of mistake or fraud. Any sale or lease of tidelands or shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, made by mistake, or not in accordance with law, or obtained by fraud or misrepresentation, shall be void, and the contract of purchase, or lease, issued thereon shall be of no effect, and the holder of such contract, or lease, shall be required to surrender the same to the department of natural resources, which, except in the case of fraud on the part of the purchaser, or lessee, shall cause the money paid on account of such surrendered contract, or lease, to be refunded to the holder thereof, provided the same has not been paid into the state treasury. [1982 1st ex.s. c 21 § 42.]

79.90.370 Assignment of contracts or leases. All contracts of purchase of tidelands or shorelands belonging to the state, otherwise permitted under RCW 79.94.150 to be sold, and all leases of tidelands, shorelands, or beds of navigable waters belonging to the state issued by the department of natural resources shall be assignable in writing by the contract holder or lessee. The assignee shall be subject to the provisions of law applicable to the purchaser, or lessee, of whom he is the assignee, and shall have the same rights in all respects as the original purchaser, or lessee, of the lands, but only if the assignment is first approved by the department and entered upon the records in the office of the commissioner of public lands. [1982 1st ex.s. c 21 § 43.]

79.90.380 Abstracts of state-owned aquatic lands. The department of natural resources shall cause full and correct abstracts of all aquatic lands, to be made and kept in the same manner as provided for in RCW 79.01.304. [1982 1st ex.s. c 21 § 44.]

79.90.390 Distraint or sale of improvements for taxes. Whenever improvements have been made on state-owned tidelands, shorelands or beds of navigable

waters, in front of cities or towns, prior to the location of harbor lines in front of such cities or towns, and the reserved harbor area as located include such improvements, no distraint or sale of such improvements for taxes shall be had until six months after said lands have been leased or offered for lease: *Provided*, That this section shall not affect or impair the lien for taxes on said improvements. [1982 1st ex.s. c 21 § 45.]

79.90.400 Aquatic lands—Court review of actions. Any applicant to purchase, or lease, any aquatic lands of the state, or any valuable materials thereon, and any person whose property rights or interest will be affected by such sale or lease, feeling himself aggrieved by any order or decision of the board of natural resources, or the commissioner of public lands, concerning the same, may appeal therefrom in the manner provided in RCW 79.01.500. [1982 1st ex.s. c 21 § 46.]

79.90.410 Reconsideration of official acts. The department of natural resources may review and reconsider any of its official acts relating to the aquatic lands of the state until such time as a lease, contract, or deed shall have been made, executed, and finally issued, and the department may recall any lease, contract, or deed issued for the purpose of correcting mistakes or errors, or supplying omissions. [1982 1st ex.s. c 21 § 47.]

79.90.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21. See RCW 79.96.900 through 79.96.905.

Chapter 79.91

AQUATIC LANDS—EASEMENTS AND RIGHTS OF WAY

(Effective July 1, 1983)

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79.91.020	Certain aquatic lands subject to easements for removal of valuable materials—Private easements subject to common use in removal of valuable materials.
79.91.030	Certain state and aquatic lands subject to easements for removal of valuable materials—Reasonable facilities and service for transporting must be furnished.
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- 79.91.170 Right of way for irrigation, diking, and drainage purposes—Procedure to acquire.
- 79.91.180 Right of way for irrigation, diking, and drainage purposes—Appraisal—Certificate.
- 79.91.190 Grant of overflow rights.
- 79.91.200 Construction of RCW 79.91.010 through 79.91.190 relating to rights of way and overflow rights.
- 79.91.210 Grant of such easements and rights of way as applicant may acquire in private lands by eminent domain.
- 79.91.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21.

79.91.010 Certain aquatic lands subject to easements for removal of valuable materials. All tide and shore lands originally belonging to the state, and which were granted, sold or leased at any time after June 15, 1911, and which contain any valuable materials or are contiguous to or in proximity of state lands or other tide or shore lands which contain any valuable materials, shall be subject to the right of the state or any grantee or lessee thereof who has acquired such other lands, or any valuable materials thereon, after June 15, 1911, to acquire the right of way over such lands so granted, sold or leased, for private railroads, skid roads, flumes, canals, watercourses or other easements for the purpose of, and to be used in, transporting and moving such valuable materials from such other lands, over and across the lands so granted or leased in accordance with the provisions of RCW 79.01.312. [1982 1st ex.s. c 21 § 48.]

79.91.020 Certain aquatic lands subject to easements for removal of valuable materials—Private easements subject to common use in removal of valuable materials. Every right of way for a private railroad, skid road, canal, flume, or watercourse, or other easement, over and across any tide or shore lands belonging to the state, for the purpose of, and to be used in, transporting and moving valuable materials of the land, granted after June 15, 1911, shall be subject to joint and common use in accordance with the provisions of RCW 79.01.316. [1982 1st ex.s. c 21 § 49.]

79.91.030 Certain state and aquatic lands subject to easements for removal of valuable materials—Reasonable facilities and service for transporting must be furnished. Any person having acquired a right of way or easement as provided in RCW 79.91.010 and 79.91.020 over any tidelands or shorelands belonging to the state or over or across beds of any navigable water or stream for the purpose of transporting or moving valuable materials and being engaged in such business, or any grantee or lessee thereof acquiring after June 15, 1911, state lands or tide or shore lands containing valuable materials, where said land is contiguous to or in proximity of such right of way or easement, shall accord to the

state or any person acquiring after June 15, 1911, valuable materials upon any such lands, proper and reasonable facilities and service for transporting and moving such valuable materials under reasonable rules and regulations and upon payment of just and reasonable charges thereof in accordance with the provisions of RCW 79.01.320. [1982 1st ex.s. c 21 § 50.]

79.91.040 Certain state and aquatic lands subject to easements for removal of valuable materials—Duty of utilities and transportation commission. Should the owner or operator of any private railroad, skid road, flume, canal, watercourse or other right of way or easement provided for in RCW 79.91.020 and 79.91.030 fail to agree with the state or any grantee or lessee thereof, as to the reasonable and proper rules, regulations, and charges, concerning the transportation and movement of valuable materials from those lands contiguous to or in proximity to the lands over which such private right of way or easement is operated, the state or any grantee or lessee thereof, owning and desiring to have such valuable materials transported or moved, may apply to the Washington state utilities and transportation commission for an inquiry into the reasonableness of the rules and regulations, investigate the same, and make such binding reasonable, proper and just rates and regulations in accordance with the provisions of RCW 79.01.324. [1982 1st ex.s. c 21 § 51.]

79.91.050 Certain state and aquatic lands subject to easements for removal of valuable materials—Penalty for violation of orders. Any person owning or operating any right of way or easement subject to the provisions of RCW 79.91.020 through 79.91.040, over and across any tidelands or shorelands belonging to the state or across any beds of navigable waters, and violating or failing to comply with any rule, regulation, or order made by the utilities and transportation commission, after inquiry, investigation, and a hearing as provided in RCW 79.91.040, shall be subject to the same penalties provided in RCW 79.01.328. [1982 1st ex.s. c 21 § 52.]

79.91.060 Certain state and aquatic lands subject to easements for removal of valuable materials—Application for right of way. Any person engaged in the business of logging or lumbering, quarrying, mining, or removing sand, gravel, or other valuable materials from land, and desirous of obtaining a right of way or easement provided for in RCW 79.91.010 through 79.91.030 over and across any tide or shore lands belonging to the state, or beds of navigable waters or any such lands sold or leased by the state since June 15, 1911, shall file with the department of natural resources upon a form to be furnished for that purpose, a written application for such right of way in accordance with the provisions of RCW 79.01.332. [1982 1st ex.s. c 21 § 53.]

79.91.070 Certain state and aquatic lands subject to easements for removal of valuable materials—Forfeiture for nonuser. Any such right of way or easement granted under the provisions of RCW 79.91.010 through

79.91.030 which has never been used, or for a period of two years has ceased to be used for the purpose for which it was granted, shall be deemed forfeited. The forfeiture of any such right of way heretofore granted or granted under the provisions of RCW 79.91.010 through 79.91.030, shall be rendered effective by the mailing of a notice of such forfeiture to the grantee thereof at his last known post office address and by posting a copy of such certificate, or other record of the grant, in the office of the commissioner of public lands with the word "canceled" and the date of such cancellation. [1982 1st ex.s. c 21 § 54.]

79.91.080 United States of America, state agency, county, or city right of way for roads and streets over, and wharves over and upon aquatic lands. Any county or city or the United States of America or any state agency desiring to locate, establish, and construct a road or street over and across any aquatic lands, or wharf over any tide or shore lands, belonging to the state, shall by resolution of the legislative body of such county, or city council or other governing body of such city, or proper agency of the United States of America or state agency, cause to be filed with the department of natural resources a petition for a right of way for such road or street or wharf in accordance with the provisions of RCW 79.01.340.

The department may grant the petition if it deems it in the best interest of the state and upon payment for such right of way and any damages to the affected aquatic lands. [1982 1st ex.s. c 21 § 55.]

79.91.090 Railroad bridge rights of way across navigable streams. Any railroad company heretofore or hereafter organized under the laws of the territory or state of Washington, or under any other state or territory of the United States, or under any act of the congress of the United States, and authorized to do business in the state and to construct and operate railroads therein, shall have the right to construct bridges across the navigable streams within this state over which the line or lines of its railway shall run for the purpose of being made a part of said railway line, or for the more convenient use thereof, if said bridges are so constructed as not to interfere with, impede, or obstruct navigation on such streams: *Provided*, That payment for any such right of way and any damages to those aquatic lands affected be first paid. [1982 1st ex.s. c 21 § 56.]

79.91.100 Public bridges or trestles across waterways and aquatic lands. Counties, cities, towns, and other municipalities shall have the right to construct bridges and trestles across waterways heretofore or hereafter laid out under the authority of the state of Washington, and over and across any tide or shore lands and harbor areas of the state adjacent thereto over which the projected line or lines of highway will run, if such bridges or trestles are constructed in good faith for the purpose of being made a part of the constructed line of such a highway,

upon payment for any such right of way and upon payment for any damages to those aquatic lands affected. [1982 1st ex.s. c 21 § 57.]

79.91.110 Common carriers may bridge or trestle state waterways. Any person authorized by any state or municipal law or ordinance to construct and operate railroads, interurban railroads or street railroads as common carriers within this state, shall have the right to construct bridges or trestles across waterways laid out under the authority of the state of Washington, over which the projected line or lines of railroad will run. The bridges or trestles shall be constructed in good faith for the purpose of being made a part of the constructed line of such railroad, and may also include a roadway for the accommodation of vehicles and foot passengers. Full payment for any such right of way and any damages to those aquatic lands affected by the right of way shall first be made. [1982 1st ex.s. c 21 § 58.]

79.91.120 Location and plans of bridge or trestle to be approved—Future alterations. The location and plans of any bridge, draw bridge, or trestle proposed to be constructed under RCW 79.91.090 through 79.91.110 shall be submitted to and approved by the department of natural resources before construction is commenced: *Provided*, That in case the portion of such waterway, river, stream, or watercourse, at the place to be so crossed is navigable water of the United States, or otherwise within the jurisdiction of the United States, such location and plans shall also be submitted to and approved by the United States Corps of Engineers before construction is commenced. When plans for any bridge or trestle have been approved by the department of natural resources and the United States Corps of Engineers, it shall be unlawful to deviate from such plans either before or after the completion of such structure, unless the modification of such plans has previously been submitted to, and received the approval of the department of natural resources and the United States Corps of Engineers, as the case may be. Any structure hereby authorized and approved as indicated in this section shall remain within the jurisdiction of the respective officer or officers approving the same, and shall be altered or changed from time to time at the expense of the municipality owning the highway, or at the expense of the common carriers, at the time owning the railway or road using such structure, to meet the necessities of navigation and commerce in such manner as may be from time to time ordered by the respective officer or officers at such time having jurisdiction of the same, and such orders may be enforced by appropriate action at law or in equity at the suit of the state. [1982 1st ex.s. c 21 § 59.]

79.91.130 Right of way for utility pipelines, transmission lines, etc. A right of way through, over and across any tidelands, shorelands, beds of navigable waters, oyster reserves belonging to the state, or the reversionary interest of the state in oyster lands may be granted to any person or the United States of America, constructing or proposing to construct, or which has

heretofore constructed, any telephone line, ditch, flume, or pipeline for the domestic water supply of any municipal corporation or transmission line for the purpose of generating or transmitting electricity for light, heat or power. [1982 1st ex.s. c 21 § 60.]

79.91.140 Right of way for utility pipelines, transmission lines, etc.—Procedure to acquire. In order to obtain the benefits of the grant made in RCW 79.91.130, the person or the United States of America constructing or proposing to construct, or which has heretofore constructed, such telephone line, ditch, flume, pipeline, or transmission line, shall file, with the department of natural resources, a map accompanied by the field notes of the survey and location of such telephone line, ditch, flume, pipeline, or transmission line, and shall make payment therefor as provided in RCW 79.91.150. The land within the right of way shall be limited to an amount necessary for the construction of said telephone line, ditch, flume, pipeline, or transmission line sufficient for the purposes required, together with sufficient land on either side thereof for ingress and egress to maintain and repair the same. The grant shall also include the right to cut all standing timber outside the right of way marked as danger trees located on public lands upon full payment of the appraised value thereof. [1982 1st ex.s. c 21 § 61.]

79.91.150 Right of way for utility pipelines, transmission lines, etc.—Appraisal—Certificate—Reversion for nonuser. On the filing of the plat and field notes, as provided in RCW 79.91.140, the land applied for and any improvements included in the right of way applied for, if any, shall be appraised as in the case of an application to purchase state lands. Upon full payment of the appraised value of the aquatic land applied for, or upon payment of an annual rental when the department of natural resources deems a rental to be in the best interests of the state, and upon full payment of the appraised value of any danger trees and improvements, if any, the department shall issue to the applicant a certificate of the grant of such right of way stating the terms and conditions thereof and shall enter the same in the abstracts and records in the office of the commissioner of public lands, and thereafter any sale or lease of the lands affected by such right of way shall be subject to the easement of such right of way: *Provided*, That should the person or the United States of America securing such right of way ever abandon the use of the same for the purposes for which it was granted, the right of way shall revert to the state, or the state's grantee. [1982 1st ex.s. c 21 § 62.]

79.91.160 Right of way for irrigation, diking, and drainage purposes. A right of way through, over, and across any tide or shore lands belonging to the state is hereby granted to any irrigation district, or irrigation company duly organized under the laws of this state, and to any person, or the United States of America, constructing or proposing to construct an irrigation ditch or pipeline for irrigation, or to any diking and drainage

district or any diking and drainage improvement district proposing to construct a dike or drainage ditch. [1982 1st ex.s. c 21 § 63.]

79.91.170 Right of way for irrigation, diking, and drainage purposes—Procedure to acquire. In order to obtain the benefits of the grant provided for in RCW 79.91.160, the irrigation district, irrigation company, person, or the United States of America, constructing or proposing to construct such irrigation ditch or pipeline for irrigation, or the diking and drainage district or diking and drainage improvement district constructing or proposing to construct any dike or drainage ditch, shall file with the department of natural resources a map accompanied by the field notes of the survey and location of the proposed irrigation ditch, pipeline, dike, or drainage ditch, and shall pay to the state as provided in RCW 79.91.180, the amount of the appraised value of the said lands used for or included within such right of way. The land within such right of way shall be limited to an amount necessary for the construction of the irrigation ditch, pipeline, dike, or drainage ditch for the purposes required, together with sufficient land on either side thereof for ingress and egress to maintain and repair the same. [1982 1st ex.s. c 21 § 64.]

79.91.180 Right of way for irrigation, diking, and drainage purposes—Appraisal—Certificate. Upon the filing of the plat and field notes as in RCW 79.91.170, the lands included within the right of way applied for shall be appraised as in the case of an application to purchase such lands, at full market value thereof. Upon full payment of the appraised value of the lands the department of natural resources shall issue to the applicant a certificate of right of way, and enter the same in the records in the office of the commissioner of public lands and thereafter any sale or lease by the state of the lands affected by such right of way shall be subject thereto. [1982 1st ex.s. c 21 § 65.]

79.91.190 Grant of overflow rights. The department of natural resources shall have the power and authority to grant to any person, the right, privilege, and authority to perpetually back and hold water upon or over any state-owned tidelands or shorelands, and to overflow and inundate the same, whenever the department shall deem it necessary for the purpose of erecting, constructing, maintaining, or operating any water power plant, reservoir, or works for impounding water for power purposes, irrigation, mining, or other public use in accordance with the provisions of RCW 79.01.408. [1982 1st ex.s. c 21 § 66.]

79.91.200 Construction of RCW 79.91.010 through 79.91.190 relating to rights of way and overflow rights. RCW 79.91.010 through 79.91.190, relating to the acquiring of rights of way and overflow rights through, over, and across aquatic lands belonging to the state, shall not be construed as exclusive or as affecting the right of municipal and public service corporations to acquire lands belonging to or under the control of the

state, or rights of way or other rights thereover, by condemnation proceedings. [1982 1st ex.s. c 21 § 67.]

79.91.210 Grant of such easements and rights of way as applicant may acquire in private lands by eminent domain. The department of natural resources may grant to any person such easements and rights in tidelands and shorelands and oyster reserves owned by the state as the applicant may acquire in privately or publicly owned lands through proceedings in eminent domain in accordance with the provisions of RCW 79.01.414. [1982 1st ex.s. c 21 § 68.]

79.91.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21. See RCW 79.96.900 through 79.96.905.

Chapter 79.92

AQUATIC LANDS—HARBOR AREAS

(Effective July 1, 1983)

Sections

79.92.010	Harbor lines and areas to be established.
79.92.020	Relocation of harbor lines by the harbor line commission.
79.92.030	Relocation of harbor lines authorized by legislature.
79.92.040	Authority to lease harbor areas—Conditions.
79.92.050	Department's valuation of harbor area prior to lease, renewal or re-lease—Appeal.
79.92.060	Terms of harbor area leases.
79.92.070	Construction or extension of docks, wharves, etc., in harbor areas—New lease.
79.92.080	Re-leases of harbor areas.
79.92.090	Procedure to re-lease harbor areas.
79.92.100	Regulation of wharfage, dockage, and other tolls.
79.92.110	Disposition of rentals from harbor areas and tidelands.
79.92.900	Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21.

79.92.010 Harbor lines and areas to be established. It shall be the duty of the board of natural resources acting as the harbor line commission to locate and establish harbor lines and determine harbor areas, as required by section 1 of Article XV of the state Constitution, where such harbor lines and harbor areas have not heretofore been located and established. [1982 1st ex.s. c 21 § 69.]

79.92.020 Relocation of harbor lines by the harbor line commission. Whenever it appears that the inner harbor line of any harbor area heretofore determined has been so established as to overlap or fall inside the government meander line, or for any other good cause, the board of natural resources acting as the harbor line commission is empowered to relocate and reestablish said inner harbor line so erroneously established, outside of the meander line. All tidelands or shorelands within said inner harbor line so reestablished and relocated, shall belong to the state and may be sold or leased as other tidelands or shorelands of the first class in accordance with the provisions of RCW 79.94.150: *Provided*, That in all other cases, authority to relocate the inner harbor line or outer harbor line, or both, shall first be obtained from the legislature. [1982 1st ex.s. c 21 § 70.]

79.92.030 Relocation of harbor lines authorized by legislature. The commission on harbor lines is hereby authorized to change, relocate, or reestablish harbor lines in Guemes Channel and Fidalgo Bay in front of the city of Anacortes, Skagit county; in Grays Harbor in front of the cities of Aberdeen, Hoquiam, and Cosmopolis, Grays Harbor county; Bellingham Bay in front of the city of Bellingham, Whatcom county; in Elliott Bay, Puget Sound and Lake Union within, and in front of the city of Seattle, King county, and within one mile of the limits of such city; Port Angeles harbor in front of the city of Port Angeles, Clallam county; in Lake Washington in front of the cities of Renton and Lake Forest Park, King county; Commencement Bay in front of the city of Tacoma, Pierce county; and within one mile of the limits of such city; Budd Inlet in front of the city of Olympia, Thurston county; the Columbia river in front of the city of Kalama, Cowlitz county; Port Washington Narrows and Sinclair Inlet in front of the city of Bremerton, Kitsap county; Sinclair Inlet in front of the city of Port Orchard, Kitsap county; in Liberty Bay in front of the city of Poulsbo, King county; the Columbia river in front of the city of Vancouver, Clark county; Port Townsend Bay in front of the city of Port Townsend, Jefferson county; the Swinomish Channel in front of the city of La Conner, Skagit county; and Port Gardner Bay in front of the city of Everett, Snohomish county, except no harbor lines shall be established west of the easterly shoreline of Jetty Island as presently situated or west of a line extending S 37° 09' 38" W from the Snohomish River Light (5). [1982 1st ex.s. c 21 § 71.]

79.92.040 Authority to lease harbor areas—Conditions. The power to lease all harbor areas situated upon tidal waters shall be vested in the department of natural resources, which shall have the authority to make leases thereof to such persons, upon such terms and conditions and for such length of time, conformable to the state Constitution and this chapter, as it may prescribe. All applications for leases of harbor areas situate upon tidal waters and lying within the limits of a port district shall be referred by the department to the port commission of such district prior to the execution of any such lease, and the port district shall make such investigation as it deems advisable, and by resolution make to the department within sixty days, such recommendations as to the character of the improvements, time of commencement and completion thereof, the percentage of fixing rental, and the terms and conditions of the lease, as the port commission shall deem proper. These recommendations shall be advisory only and not binding upon the department: *Provided*, That no preference rights are renewed or created under the provisions of this section, and the department shall have the power to grant or reject an application as in the department's judgment, the public interest may require, but nothing contained in this section shall be construed to nullify or qualify the provisions of RCW 79.92.060 and 79.92.070: *Provided further*, That in every lease granted the department shall insert a provision reserving to the state, port district,

county, city, or other public agency in the vicinity where the portion of the harbor area described in such lease is located, the right to assume and thereafter hold such lease upon acquisition of the tidelands contiguous thereto and fronting thereon, without payment of any value to the former lessee for said lease except for improvements thereon. [1982 1st ex.s. c 21 § 72.]

79.92.050 Department's valuation of harbor area prior to lease, renewal or re-lease—Appeal. Prior to the issuance of a lease, renewal lease, or re-lease of harbor area on tidal waters under RCW 79.92.040, and every five years thereafter during the life of all leases written after August 11, 1969, and no less frequently than every five years for all prior leases, the department of natural resources shall determine the true and fair value in money of such harbor area (exclusive of the improvements thereon), which value shall be the value at which the property would be taken in payment of a just debt from a solvent debtor. All harbor area leases will stipulate the percentage rate of said values that will be paid as the annual rent during the period until the next reappraisal of the value of the harbor area as established herein: *Provided*, That the applicant, or lessee, being dissatisfied with the valuation as fixed by the department of natural resources shall have the right of appeal from the findings of the department to a valuation board to be composed of the legislative body of the county, the county treasurer and the county assessor of the county in which the harbor area is located. To perfect such appeal, notice thereof shall be in writing and a copy must, within thirty days after receipt of notice of the department of natural resources' valuation, be personally served upon each member of the legislative body of the county and upon the county treasurer, the county assessor, and the administrator of the department of natural resources; or such copy may be left at the residence of such officer with some person of suitable age and discretion. Service of the notice may be made by any person qualified to serve a summons in a civil action. Within five days following the service of such notice on the chairman of the board of county commissioners, or county council, as the case may be, said chairman shall fix a time and place for a meeting of said valuation board and shall notify each of the officers of said board thereof, which said time shall be not less than five nor more than ten days from the date of giving such notice; like notice of the time and place fixed for said hearing shall also be given the applicant, or lessee, and the department of natural resources. Such hearing will be conducted under and in compliance with the procedures of chapter 34.04 RCW. At the time and place fixed for said meeting, the said board shall meet and determine, by such means as it may select, the valuation of the harbor area in question. A majority of said officers shall constitute a quorum for the purpose of determining the question, and the valuation shall be determined by a majority vote of the members of said board. If a majority of the members of said board participate in said meeting, no question shall be made as to any irregularity of the giving of notice as required. The meeting of the

board and its deliberations and voting shall be open to the public and any interested parties. The decision of the board on the question of valuation shall be final and conclusive on all parties. [1982 1st ex.s. c 21 § 73.]

79.92.060 Terms of harbor area leases. Applications, leases, and bonds of lessees shall be in such form as the department of natural resources shall prescribe. Every lease shall provide that the rental shall be payable to the department, and for cancellation by the department upon sixty days' written notice for any breach of the conditions thereof. Every lessee shall furnish a bond, with surety satisfactory to the department, with such penalty as the department may prescribe, but not less than five hundred dollars, conditioned upon the faithful performance of the terms of the lease and the payment of the rent when due. If the department shall at any time deem any bond insufficient, it may require the lessee to file a new and sufficient bond within thirty days after receiving notice to do so.

Applications for leases of harbor areas upon tidal waters shall be accompanied by such plans and drawings and other data concerning the proposed wharves, docks, or other structures or improvements thereof as the department shall require. Every lease of harbor areas shall provide that, wharves, docks, or other conveniences of navigation and commerce adequate for the public needs, to be specified in such lease, shall be constructed within such time as may be fixed in each case by the department. In no case shall the construction be commenced more than two years from the date of such lease and shall be completed within such reasonable time as the department shall fix, any of which times may be extended by the department either before or after their expiration, and the character of the improvements may be changed either before or after completion with the approval of the department: *Provided*, That if in its opinion improvements existing upon such harbor area or the tidelands adjacent thereto are adequate for public needs of commerce and navigation, the department shall require the maintenance of such existing improvements and need not require further improvements. [1982 1st ex.s. c 21 § 74.]

79.92.070 Construction or extension of docks, wharves, etc., in harbor areas—New lease. If the owner of any harbor area lease upon tidal waters shall desire to construct thereon any wharf, dock, or other convenience of navigation or commerce, or to extend, enlarge, or substantially improve any existing structure used in connection with such harbor area, and shall deem the required expenditure not warranted by his right to occupy such harbor area during the remainder of the term of his lease, he may make application to the department of natural resources for a new lease of such harbor area for a period not exceeding thirty years. Upon the filing of such application accompanied by such proper plans, drawings or other data, the department shall forthwith investigate the same and if it shall determine that the proposed work or improvement is in the public interest and reasonably adequate for the public

needs, it shall by order fix the terms and conditions and the rate of rental for such new lease, such rate of rental shall be a fixed percentage, during the term of such lease, on the true and fair value in money of such harbor area determined from time to time by the department as provided in RCW 79.92.050. The department may propose modifications of the proposed wharf, dock, or other convenience or extensions, enlargements, or improvements thereon. The department shall, within ninety days from the filing of such application notify the applicant in writing of the terms and conditions upon which such new lease will be granted, and of the rental to be paid, and if the applicant shall within ninety days thereafter elect to accept a new lease of such harbor area upon the terms and conditions, and at the rental prescribed by the department, the department shall make a new lease for such harbor area for the term applied for and the existing lease shall thereupon be surrendered and canceled. [1982 1st ex.s. c 21 § 75.]

79.92.080 Re-leases of harbor areas. Upon the expiration of any harbor area lease upon tidal waters hereafter expiring, the owner thereof may apply for a re-lease of such harbor area for a period not exceeding thirty years. Such application shall be accompanied with maps showing the existing improvements upon such harbor area and the tidelands adjacent thereto and with proper plans, drawings, and other data showing any proposed extensions or improvements of existing structures. Upon the filing of such application the department of natural resources shall forthwith investigate the same and if it shall determine that the character of the wharves, docks or other conveniences of commerce and navigation are reasonably adequate for the public needs and in the public interest, it shall by order fix and determine the terms and conditions upon which such re-lease shall be granted and the rate of rental to be paid, which rate shall be a fixed percentage during the term of such lease on the true and fair value in money of such harbor area as determined from time to time by the department of natural resources in accordance with RCW 79.92.050. [1982 1st ex.s. c 21 § 76.]

79.92.090 Procedure to re-lease harbor areas. Upon completion of the valuation of any tract of harbor area applied for under RCW 79.92.080, the department of natural resources shall notify the applicant of the terms and conditions upon which the re-lease will be granted and of the rental fixed. Such applicant or his successor in interest shall have the option for the period of sixty days from the date of the service of such notice in which to accept a lease on the terms and conditions and at the rental so fixed and determined by the department. If such terms and conditions and rental are accepted a new lease shall be granted for the term applied for. If such terms and conditions are not accepted by the applicant within said period of time, or within such further time, not exceeding three months, as the department shall grant, the same shall be deemed rejected by the applicant, and the department shall give eight weeks' notice by publication in one or more weekly newspapers printed

and of general circulation in the county in which such harbor area is situate, that a lease of such harbor area will be sold on such terms and conditions and at such rental, at a time and place specified in such notice (which shall not be more than three months from the date of the first publication of said notice) to the person offering at such public sale to pay the highest sum as a cash bonus at the time of sale of such lease. Notice of such sale shall be served upon the applicant at least six weeks prior to the date thereof. The person paying the highest sum as a cash bonus shall be entitled to lease such harbor area: *Provided*, That if such lease be not sold at such public sale the department may at any time or times again fix the terms, conditions and rental, and again advertise such lease for sale as above provided and upon similar notice: *And provided further*, That upon failure to secure any sale of such lease as above prescribed, the department may issue revocable leases without requirement of improvements for one year periods at a minimum rate of two percent. [1982 1st ex.s. c 21 § 77.]

79.92.100 Regulation of wharfage, dockage, and other tolls. The state of Washington shall ever retain and does hereby reserve the right to regulate the rates of wharfage, dockage, and other tolls to be imposed by the lessee or his assigns upon commerce for any of the purposes for which the leased area may be used and the right to prevent extortion and discrimination in such use thereof. [1982 1st ex.s. c 21 § 78.]

79.92.110 Disposition of rentals from harbor areas and tidelands. The rents paid under leases of harbor areas and tidelands belonging to the state of Washington, where not otherwise directed to a particular account, shall be disposed of as follows:

Where the leased harbor area or tideland is situated within the territorial limits of a port district, twenty-five percent of the rentals received from such leases shall be paid by the state treasurer to the county treasurer of the county wherein such port district is situated for the use of such port district and said rental shall go into a special fund to be expended only for harbor or waterfront improvement purposes. The remaining seventy-five percent shall be deposited in the capitol purchase and development account of the general fund of the state treasury: *Provided*, That in cases where the port district itself shall have before April 28, 1967, constructed or owned structures or improvements situate upon the leased harbor area, or tidelands, the entire rentals from such improved harbor area or tideland shall go to the port district: *Provided further*, That whenever the port district shall after April 28, 1967, construct improvements on such leased harbor area or tidelands, the rental attributable to such improvements shall go to the port district.

In all other cases twenty-five percent of the rents shall be paid by the state treasurer into the county treasury of the county in which the leased harbor area or tidelands are situated, the same to go into a special fund known as the "harbor improvement fund", and to be

disbursed only for harbor or harbor improvement purposes; and the remaining seventy-five percent shall be deposited in the capitol purchase and development account of the general fund of the state treasury: *Provided*, That where any leased harbor area or tideland is situated within the limits of any incorporated city or town and is not embraced within the area of any port district, the legislative body of the county shall allocate the funds received from the lease thereof to the municipal authorities of such city or town, to be expended by said authorities for harbor or waterfront purposes. The state treasurer is hereby authorized and directed to make such payments to the respective county treasurers for the use of such port districts or counties, as the case may be, on the first days of July and January of each year, of all moneys in his hands on such dates payable under the terms of this section to such port district and counties respectively. [1982 2nd ex.s. c 8 § 2; 1982 1st ex.s. c 21 § 79.]

Effective date—1982 2nd ex.s. c 8 § 2: "Section 2 of this act shall take effect July 1, 1983." [1982 2nd ex.s. c 8 § 3.] "Section 2 of this act" is the 1982 2nd ex.s. c 8 amendment to RCW 79.92.110.

79.92.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21. See RCW 79.96.900 through 79.96.905.

Chapter 79.93

AQUATIC LANDS—WATERWAYS AND STREETS

(Effective July 1, 1983)

Sections

79.93.010	First class tide and shore lands to be platted—Public waterways and streets.
79.93.020	Streets, waterways, etc., validated.
79.93.030	Street slopes on tide or shore lands.
79.93.040	Permits to use waterways.
79.93.050	Excavation of waterways—Waterways open to public—Tide gates or locks.
79.93.060	Vacation of waterways—Extension of streets.
79.93.900	Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21.

79.93.010 First class tide and shore lands to be platted—Public waterways and streets. It shall be the duty of the department of natural resources simultaneously with the establishment of harbor lines and the determination of harbor areas in front of any city or town, or as soon thereafter as practicable, to survey and plat all tide and shore lands of the first class not heretofore platted, and in platting the same to lay out streets which shall thereby be dedicated to public use, subject to the control of the cities or towns in which they are situated.

The department shall also establish one or more public waterways not less than fifty nor more than one thousand feet wide, beginning at the outer harbor line and extending inland across the tidelands belonging to the state. These waterways shall include within their boundaries, as nearly as practicable, all navigable streams running through such tidelands, and shall be located at such other places as in the judgment of the department may be necessary for the present and future

convenience of commerce and navigation. All waterways shall be reserved from sale or lease and remain as public highways for watercraft until vacated as provided for in this chapter.

The department shall appraise the value of such platted tide and shore lands and enter such appraisals in its records in the office of the commissioner of public lands. [1982 1st ex.s. c 21 § 80.]

79.93.020 Streets, waterways, etc., validated. All alleys, streets, avenues, boulevards, waterways, and other public places and highways heretofore located and platted on the tide and shore lands of the first class, or harbor areas, as provided by law, and not heretofore vacated as provided by law, are hereby validated as public highways and dedicated to the use of the public for the purposes for which they were intended, subject however to vacation as provided for in this chapter. [1982 1st ex.s. c 21 § 81.]

79.93.030 Street slopes on tide or shore lands. The department of natural resources shall have power to approve plans for and authorize the construction of slopes, with rock, riprap, or other protection, upon any state owned aquatic lands incident to the improvement of any abutting or adjacent street or avenue by any city or town in this state. [1982 1st ex.s. c 21 § 82.]

79.93.040 Permits to use waterways. Whenever, in any waterways created under the laws of this state, the United States government shall have established pierhead lines within said waterway at any distance from the boundaries thereof established by the state, structures shall be allowed to be constructed in that strip of waterway between the waterway boundary and the nearest pierhead line but only upon the consent of the department of natural resources and upon such plans, terms, and conditions and for such term as approved and fixed by the department. However, no permit shall extend for a period longer than thirty years.

The department shall require of the holder of every permit under this section a penalty bond with sufficient surety, to be approved by the department, in an amount not exceeding twice the amount of the annual rental, but in no case less than five hundred dollars. The bond shall secure the payment of the rental reserved in the permit, during the term of such permit or during such part thereof as said department in its discretion shall require to be covered by such bond. In case only a part of the term of such permit shall be covered thereby, the department shall require another like bond, to be executed and delivered within three months and not less than one month prior to the expiration of the period covered by the previous bond, to cover the remainder of the term of the permit, or such part thereof as the department in its discretion shall require to be covered thereby. The department shall have power at any time to summon sureties upon any bond and to examine into the sufficiency of the bond, and if the department shall find the same to be insufficient, it shall require the holder of the permit to file a new and sufficient bond within thirty days after

receiving notice to do so, under penalty of cancellation of the permit.

The department shall have power upon sixty days' notice to cancel any permit for a substantial breach by the holder thereof of any of the conditions thereof, or for lack of a bond therewith as required by this section.

In case[s] where such waterways shall be within the territorial limits of a port district organized under the laws of this state, the duties assigned by this section to the department shall be exercised by the port commission of such port district, and in every case the rentals received shall be disposed of as follows: Seventy-five percent shall be paid by the state treasurer to the county treasurer of the county wherein such port district is situated, for the use of said port district and twenty-five percent into the state treasury: *Provided*, That in cases where the port district itself shall have constructed or shall have owned structures or improvements situated upon such strip of waterway since June 22, 1913, the entire rentals for such improved strip of waterway shall be paid directly to the county treasurer for the use of such port district.

Nothing in this section shall confer upon, create, or recognize in any abutting owner any right or privilege in or to any strip of waterway abutting any street and between prolongations of the lines of such street, but the control of and the right to use such strip is hereby reserved to the state of Washington, except that in cases situate in a port district such control and use shall vest in such port district. [1982 1st ex.s. c 21 § 83.]

79.93.050 Excavation of waterways—Waterways open to public—Tide gates or locks. All waterways excavated through any tide or shore lands belonging to the state of Washington by virtue of the provisions of chapter 99, Laws of 1893, so far as they run through said tide or shore lands, are hereby declared to be public waterways, free to all citizens upon equal terms, and subject to the jurisdiction of the proper authorities, as otherwise provided by law: *Provided*, That where tide gates or locks are considered by the contracting parties excavating any waterways to be necessary to the efficiency of the same, the department of natural resources may, in its discretion, authorize such tide gates or locks to be constructed and may authorize the parties constructing the same to operate them and collect a reasonable toll from vessels passing through said tide gates or locks: *Provided further*, That the state of Washington or the United States of America can, at any time, appropriate said tide gates or locks upon payment to the parties erecting them of the reasonable value of the same at the date of such appropriation, said reasonable value to be ascertained and determined as in other cases of condemnation of private property for public use. [1982 1st ex.s. c 21 § 84.]

79.93.060 Vacation of waterways—Extension of streets. Whenever any waterway established under the authority of the laws of this state, or any portion of such waterway, shall not have been excavated, or shall not be in use for the purposes of navigation, or shall no longer

be required in the public interest to exist as a waterway, such waterway or portion thereof may be vacated by written order of the commissioner of public lands of the state of Washington whenever he shall be requested so to do by ordinance or resolution of the city council of the city in which such waterway is situate, in whole or in part, or, in case such waterway is situate, in whole or in part, in a port district organized under the laws of the state of Washington, whenever he shall be requested so to do by resolution of the port commission of such port district; and upon the making of such order the waterway or portion thereof shall thereupon be deemed to be and shall be thereby vacated: *Provided, however*, That if the waterway or portion thereof so vacated be navigable water of the United States, or otherwise within the jurisdiction of the United States, a copy of such resolution or ordinance, together with a copy of said order of the commissioner of public lands certified to by him, shall be submitted to the United States Army Corps of Engineers for their approval, and if they approve the same such waterway or portion thereof shall thereupon be deemed to be and shall be thereupon vacated.

Upon such vacation occurring, in either of the manners aforesaid, the commissioner of public lands shall notify the city within, or in front of, which, such waterway is located, and the city shall have the right, if otherwise permitted by RCW 79.94.150, to extend across the portions so vacated any existing streets, or to select therefrom such portions thereof as the city may desire for street purposes, in no case to exceed one hundred fifty feet in width for any one street. Such selection shall be made within sixty days subsequent to the receipt of notice of the vacation of the portion of the waterway so vacated.

Should such city fail to make such selection within such time, or within such time make such selection, the title of the remaining portions of such waterway so vacated shall vest in the state, unless the same be situate within the territorial limits of a port district created under the laws of the state, in which event, if otherwise permitted by RCW 79.94.150, such title shall vest in said port district. If subsequent to such vacation, the vacated waterway or portion of waterway shall be embraced within the limits of a port district created under the laws of the state, the title to such portions thereof as shall then remain undisposed of by the state shall vest in such port district. Such title so vesting shall be subject to any railroad or street railway crossings existing at the time of such vacation. [1982 1st ex.s. c 21 § 85.]

79.93.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21. See RCW 79.96.900 through 79.96.905.

Chapter 79.94

AQUATIC LANDS—TIDELANDS AND SHORELANDS (Effective July 1, 1983)

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79.94.010 Survey to determine area subject to sale or lease. The department of natural resources may cause any tide or shore lands belonging to the state to be surveyed and platted for the purpose of ascertaining and determining the area subject to sale or lease. [1982 1st ex.s. c 21 § 86.]

79.94.020 First class tidelands and shorelands to be platted. It shall be the duty of the department of natural resources simultaneously with the establishment of harbor lines and the determination of harbor areas in front of any city or town or as soon thereafter as practicable to survey and plat all tidelands and shorelands of the first class not heretofore platted as provided in RCW 79.93.010. [1982 1st ex.s. c 21 § 87.]

79.94.030 Second class tidelands and shorelands may be platted. The department of natural resources may survey and plat any tidelands and shorelands of the second class not heretofore platted. [1982 1st ex.s. c 21 § 88.]

79.94.040 Tidelands and shorelands of the first class and second class—Plats—Record. The department of natural resources shall prepare plats showing all tidelands and shorelands of the first class and second class, surveyed, platted, and appraised by it in the respective counties, on which shall be marked the location of all such aquatic lands, with reference to the lines of the United States survey of the abutting upland, and shall prepare in well bound books a record of its proceedings, including a list of said tidelands and shorelands surveyed, platted, or replatted, and appraised by it and its appraisal of the same, which plats and books shall be in triplicate and the department shall file one copy of such plats and records in the office of the commissioner of public lands, and file one copy in the office of the county auditor of the county where the lands platted, or replatted, and appraised are situated, and file one copy in the office of the city engineer of the city in which, or within

two miles of which, the lands platted, or replatted, are situated. [1982 1st ex.s. c 21 § 89.]

79.94.050 Tidelands and shorelands of the first class and second class—Appraisal—Record. In appraising tidelands or shorelands of the first class or second class platted or replatted after March 26, 1895, the department of natural resources shall appraise each lot, tract or piece of land separately, and shall enter in a well bound book to be kept in the office of the commissioner of public lands a description of each lot, tract or piece of tide or shore land of the first or second class, its full appraised value, the area and rate per acre at which it was appraised, and if any lot is covered in whole or in part by improvements in actual use for commerce, trade, residence, or business, on or prior to, the date of the plat or replat, the department shall enter the name of the owner, or reputed owner, the nature of the improvements, the area covered by the improvements, the portion of each lot, tract or piece of land covered, and the appraised value of the land covered, with and exclusive of, the improvements. [1982 1st ex.s. c 21 § 90.]

79.94.060 Tidelands and shorelands of the first class and second class—Notice of filing plat and record of appraisal—Appeal. The department of natural resources shall, before filing in the office of the commissioner of public lands the plat and record of appraisal of any tidelands or shorelands of the first or second class platted and appraised by it, cause a notice to be published once each week for four consecutive weeks in a newspaper published and of general circulation in the county wherein the land covered by such plat and record are situated, stating that such plat and record, describing it, is complete and subject to inspection at the office of the commissioner of public lands, and will be filed on a certain day to be named in the notice.

Any person entitled to purchase under RCW 79.94.150 and claiming a preference right of purchase of any of the tidelands or shorelands platted and appraised by the department, and who feels aggrieved at the appraisal fixed by the department upon such lands, or any part thereof, may within sixty days after the filing of such plat and record in the office of the commissioner (which shall be done on the day fixed in said notice), appeal from such appraisal to the superior court of the county in which the tide or shore lands are situated, in the manner provided for taking appeals from orders or decisions under RCW 79.90.400.

The prosecuting attorney of any county, or city attorney of any city, in which such aquatic lands are located, shall at the request of the governor, or of ten freeholders of the county or city, in which such lands are situated, appeal on behalf of the state, or the county, or city, from any such appraisal in the manner provided in this section. Notice of such appeal shall be served upon the department of natural resources through the administrator, and it shall be his duty to immediately notify all persons entitled to purchase under RCW 79.94.150 and claiming a preference right to purchase the lands subject to the appraisal.

Any party, other than the state or the county or city appealing, shall execute a bond to the state with sufficient surety, to be approved by the department of natural resources, in the sum of two hundred dollars conditioned for the payment of costs on appeal.

The superior court to which an appeal is taken shall hear evidence as to the value of the lands appraised and enter an order confirming, or raising, or lowering the appraisal appealed from, and the clerk of the court shall file a certified copy thereof in the office of the commissioner of public lands. The appraisal fixed by the court shall be final. [1982 1st ex.s. c 21 § 91.]

79.94.070 Tidelands and shorelands of the first class—Preference right of upland owner—How exercised. Upon platting and appraisal of tidelands or shorelands of the first class as in this chapter provided, if the department of natural resources shall deem it for the best public interest to offer said tide or shore lands of the first class for lease, the department shall cause a notice to be served upon the owner of record of uplands fronting upon the tide or shore lands to be offered for lease if he be a resident of the state, or if he be a non-resident of the state, shall mail to his last known post office address, as reflected in the county records, a copy of the notice notifying him that the state is offering such tide or shore lands for lease, giving a description of those lands and the department's appraised fair market value of such tide or shore lands for lease, and notifying such owner that he has a preference right to apply to lease said tide or shore lands at the appraised value for the lease thereof for a period of sixty days from the date of service of mailing of said notice. If at the expiration of sixty days from the service or mailing of the notice, as above provided, there being no conflicting applications filed, and the owner of the uplands fronting upon the tide or shore lands offered for lease, has failed to avail himself of his preference right to apply to lease or to pay to the department the appraised value for lease of the tide or shore lands described in said notice, then in that event, said tide or shore lands may be offered for lease to any person and may be leased in the manner provided for in the case of lease of state lands.

If at the expiration of sixty days two or more claimants asserting a preference right to lease shall have filed applications to lease any tract, conflicting with each other, the conflict between the claimants shall be equitably resolved by the department of natural resource[s] as the best interests of the state require in accord with the procedures prescribed by chapter 34.04 RCW: *Provided*, That any contract purchaser of lands or rights therein, which upland qualifies the owner for a preference right under this section, shall have first priority for such preference right. [1982 1st ex.s. c 21 § 92.]

79.94.080 Tide and shore lands—Sale of remaining lands. Any tide or shore lands of the first class remaining unsold, and where there is no pending application for the purchase of the same under claim of any preference right, when otherwise permitted under RCW 79.94.150 to be sold, shall be sold on the same

terms and in the same manner as provided for the sale of state lands for not less than the appraised value fixed at the time of the application to purchase, and the department of natural resources whenever it shall deem it advisable and for the best interest of the state may reappraise such lands in the same manner as provided for the appraisal of state lands. [1982 1st ex.s. c 21 § 93.]

79.94.090 Sale of tidelands other than first class. All tidelands, other than first class, shall be offered for sale, when otherwise permitted under RCW 79.94.150 to be sold, and sold in the same manner as state lands, other than capitol building lands, but for not less than five dollars per lineal chain, measured on the United States meander line bounding the inner shore limit of such tidelands, and each applicant shall furnish a copy of the United States field notes, certified to by the officer in charge thereof, of said meander line with his application, and shall pay one-tenth of the purchase price on the date of sale. [1982 1st ex.s. c 21 § 94.]

79.94.100 Tidelands and shorelands of the first and second class—Petition for replat—Replating and reappraisal—Vacation by replat. Whenever all of the owners and other persons having a vested interest in those tidelands or shorelands embraced within any plat of tide or shore lands of the first or second class, heretofore or hereafter platted or replatted, or within any portion of any such plat in which there are unsold tide or shore lands belonging to the state, shall file a petition with the department of natural resources accompanied by proof of service of such petition upon the city council, or other governing body, of the city or town in which the tide or shore lands described in the petition are situated, or upon the legislative body of the county in which such tide or shore lands outside of any incorporated city or town are situated, asking for a replat of such tide or shore lands, the department is authorized and empowered to replat said tide or shore lands described in such petition, and all unsold tide or shore lands situated within such replat shall be reappraised as provided for the original appraisal of tide or shore lands: *Provided*, That any streets or alleys embraced within such plat or portion of plat, vacated by the replat hereby authorized shall vest in the owner or owners of the lands abutting thereon. [1982 1st ex.s. c 21 § 95.]

79.94.110 Tidelands and shorelands of the first and second class—Dedication of replat—All interests must join. If in the preparation of a replat provided for in RCW 79.94.100 by the department of natural resources, it becomes desirable to appropriate any tidelands or shorelands heretofore sold for use as streets, alleys, waterways, or other public places, all persons interested in the title to such tidelands or shorelands desired for public places shall join in the dedication of such replat before it shall become effective. [1982 1st ex.s. c 21 § 96.]

79.94.120 Tidelands and shorelands of the first and second class—Vacation by replat—Preference right of tideland or shoreland owner. If any street, alley, waterway, or other public place theretofore platted, is vacated by a replat as provided for in RCW 79.94.100 and 79.94.110, or any new street, alley, waterway, or other public place is so laid out as to leave unsold tidelands or shorelands between such new street, alley, waterway, or other public place, and tidelands or shorelands theretofore sold, the owner of the adjacent tidelands or shorelands theretofore sold shall have the preference right for sixty days after the final approval of such plat to purchase the unsold tidelands or shorelands so intervening at the appraised value thereof, if otherwise permitted under RCW 79.94.150 to be sold. [1982 1st ex.s. c 21 § 97.]

79.94.130 Tidelands and shorelands of the first and second class—Vacation procedure cumulative. RCW 79.94.100 through 79.94.120 are intended to afford a method of procedure, in addition to other methods provided in this chapter for the vacation of streets, alleys, waterways, and other public places platted on tidelands or shorelands of the first or second class. [1982 1st ex.s. c 21 § 98.]

79.94.140 Tidelands and shorelands of the first and second class—Effect of replat. A replat of tidelands or shorelands of the first or second class heretofore, or hereafter, platted shall be in full force and effect and shall constitute a vacation of streets, alleys, waterways, and other public places theretofore dedicated, when otherwise permitted by RCW 79.94.150, and the dedication of new streets, alleys, waterways, and other public places appearing upon such replat, when the same is recorded and filed as in the case of original plats. [1982 1st ex.s. c 21 § 99.]

79.94.150 First and second class tidelands and shorelands and waterways of state to be sold only to public entities—Leasing—Limitation. (1) This section shall apply to:

- (a) First class tidelands as defined in RCW 79.90.030;
- (b) Second class tidelands as defined in RCW 79.90.035;
- (c) First class shorelands as defined in RCW 79.90.040;
- (d) Second class shorelands as defined in RCW 79.90.045, except as included within RCW 79.94.210;
- (e) Waterways as described in RCW 79.93.010.

(2) Notwithstanding any other provision of law, from and after August 9, 1971, all tidelands and shorelands enumerated in subsection (1) of this section owned by the state of Washington shall not be sold except to public entities as may be authorized by law and they shall not be given away.

(3) Tidelands and shorelands enumerated in subsection (1) of this section may be leased for a period not to exceed fifty-five years: *Provided*, That nothing in this section shall be construed as modifying or canceling any outstanding lease during its present term.

(4) Nothing in this section shall:

(a) Be construed to cancel an existing sale contract;

(b) Prohibit sale or exchange of beds and shorelands where the water course has changed and the area now has the characteristics of uplands;

(c) Prevent exchange involving state-owned tide and shore lands. [1982 1st ex.s. c 21 § 100.]

79.94.160 Sale of state-owned tide or shore lands to municipal corporation or state agency—Authority to execute agreements, deeds, etc. The department of natural resources may with the advice and approval of the board of natural resources sell state-owned tide or shore lands at the appraised market value to any municipal corporation or agency of the state of Washington when said land is to be used solely for municipal or state purposes: *Provided*, That the department shall with the advice and approval of the attorney general, execute such agreements, writings, or relinquishments and certify to the governor such deeds as are necessary or proper to affect such sale or exchange. [1982 1st ex.s. c 21 § 101.]

79.94.170 Construction of RCW 79.94.150 and 79.94.170—Use and occupancy fee where unauthorized improvements placed on publicly owned aquatic lands. Nothing in RCW 79.94.150 and 79.94.170 shall be construed to prevent the assertion of public ownership rights in any publicly owned aquatic lands, or the leasing of such aquatic lands when such leasing is not contrary to the state-wide public interest.

The department of natural resources may require the payment of a use and occupancy fee in lieu of a lease where improvements have been placed without authorization on publicly owned aquatic lands. [1982 1st ex.s. c 21 § 102.]

79.94.180 Leases of first and second class tidelands—Conditions. The power to lease all platted first class tidelands and all second class tidelands shall be vested in the department of natural resources which shall have the authority to make leases thereof to such persons, for such purposes, upon such terms and conditions, and for such length of time, in accordance with this chapter, as it may prescribe: *Provided*, That all applications for leases of first or second class tidelands lying within the limits of a port district shall before the execution of any such lease be referred by the department to the port commission of such port district which shall make such investigation as it deems advisable, and by resolution make to the department within sixty days such recommendations as to the character of the improvements, time of commencement and completion thereof, the percentage for fixing rental, and the terms and conditions of the lease, as such port commission shall deem proper, which recommendation shall be advisory to, but not binding, upon the department: *Provided further*, That no preference rights are renewed or created under the provisions of this section and the power of the department to grant or reject an application, as the public interest in its judgment may require, is hereby declared, but nothing in this section shall be construed to

nullify or qualify the provisions of RCW 79.94.190. [1982 1st ex.s. c 21 § 103.]

79.94.190 Leases of first and second class tidelands—Terms. Applications, leases, and bonds of lessees shall be in such form as the department of natural resources shall prescribe. Every lease of tidelands owned by the state shall provide that the rental shall be payable to the department, and for cancellation by the department upon sixty days' written notice for any breach of the conditions thereof. Every lessee shall furnish a bond, with surety satisfactory to the department, in such penalty as it may prescribe, but not less than five hundred dollars, as security for the faithful performance of the terms of the lease and the payment of the rent when due. If the department shall at any time deem any bond insufficient, it may require the lessee to file a new and sufficient bond within thirty days after receiving notice so to do. [1982 1st ex.s. c 21 § 104.]

79.94.200 First class shorelands—Leasing. The department of natural resources is authorized to lease any platted first class shorelands in the same manner as provided for the lease of state lands, except capitol building lands. [1982 1st ex.s. c 21 § 105.]

79.94.210 Second class shorelands on navigable lakes—Sale. (1) The legislature finds that maintaining public lands in public ownership is often in the public interest. However, when second class shorelands on navigable lakes have minimal public value, the sale of those shorelands to the abutting upland owner may not be contrary to the public interest: *Provided*, That the purpose of this section is to remove the prohibition contained in RCW 79.94.150 regarding the sale of second class shorelands to abutting owners, whose uplands front on the shorelands. Nothing contained in this section shall be construed to otherwise affect the rights of interested parties relating to public or private ownership of shorelands within the state.

(2) Notwithstanding the provisions of RCW 79.94.150, the department of natural resources may sell second class shorelands on navigable lakes to abutting owners whose uplands front upon the shorelands in cases where the board of natural resources has determined that these sales would not be contrary to the public interest. These shorelands shall be sold at fair market value, but not less than five percent of the fair market value of the abutting upland, less improvements, to a maximum depth of one hundred and fifty feet landward from the line of ordinary high water.

(3) Review of the decision of the department regarding the sale price established for a shoreland to be sold pursuant to this section may be obtained by the upland owner by filing a petition with the board of tax appeals created in accordance with chapter 82.03 RCW within thirty days of the date the department notified the owner regarding the price. The board of tax appeals shall review such cases in a "contested case" proceeding as described in chapter 34.04 RCW, and the board's review shall be de novo. Decisions of the board of tax appeals

regarding fair market values determined pursuant to this section shall be final unless appealed to the superior court pursuant to RCW 34.04.130. [1982 1st ex.s. c 21 § 106.]

79.94.220 Second class shorelands—Boundary of shorelands when water lowered—Certain shorelands granted to city of Seattle. In every case where the state of Washington had prior to June 13, 1913, sold to any purchaser from the state any second class shorelands bordering upon navigable waters of this state by description wherein the water boundary of the shorelands so purchased is not defined, such water boundary shall be the line of ordinary navigation in such water; and whenever such waters have been or shall hereafter be lowered by any action done or authorized either by the state of Washington or the United States, such water boundary shall thereafter be the line of ordinary navigation as the same shall be found in such waters after such lowering, and there is hereby granted and confirmed to every such purchaser, his heirs and assigns, all such lands: *Provided however*, That RCW 79.94.220 and 79.94.230 shall not apply to such portions of such second class shorelands which shall, as provided by RCW 79.94.230, be selected by the department of natural resources for harbor areas, slips, docks, wharves, warehouses, streets, avenues, parkways and boulevards, alleys, or other public purposes: *Provided further*, That all shorelands and the bed of Lake Washington from the southerly margin of the plat of Lake Washington shorelands southerly along the westerly shore of said lake to a line three hundred feet south of and parallel with the east and west center line of section 35, township 24 north, range 4 east, W.M., are hereby reserved for public uses and are hereby granted and donated to the city of Seattle for public park, parkway and boulevard purposes, and as a part of its public park, parkway, and boulevard system and any diversion or attempted diversion of such lands so donated from such purposes shall cause the title to said lands to revert to the state. [1982 1st ex.s. c 21 § 107.]

79.94.230 Second class shorelands—Platting—Selection for slips, docks, wharves, etc. It shall be the duty of the department of natural resources to survey such second class shorelands and in platting such survey to designate thereon as selected for public use all of such shorelands as in the opinion of the department is available, convenient or necessary to be selected for the use of the public as harbor areas, sites for slips, docks, wharves, warehouses, streets, avenues, parkways and boulevards, alleys, and other public purposes.

Upon the filing of such plat in the office of the commissioner of public lands, the title to all harbor areas so selected shall remain in the state, the title to all selections for streets, avenues, and alleys shall vest in any city or town within the corporate limits of which they may be then situate, otherwise in the county in which situate, the title to and control of any lands so selected and designated upon such plat for parkways and boulevard purposes shall, if the same lie outside of the corporate limits

of any city or town and if the same form a part of the general parkway and boulevard system of a city of the first class, be in such city, and the title to all selections for slips, docks, wharves, warehouses and other public purposes shall vest in the port district if they be situate in a port district, otherwise in the county in which situate. [1982 1st ex.s. c 21 § 108.]

79.94.240 Second class shorelands—Platting of certain shorelands of Lake Washington for use as harbor area—Effect. It shall be the duty of the department of natural resources to plat for the public use harbor area in front of such portions of the shorelands of Lake Washington heretofore sold as second class shorelands by the state of Washington as in the opinion of the department are necessary for the use of the public as harbor area: *Provided however*, That RCW 79.94.240 and 79.94.250 shall not be construed to authorize the department to change the location of any inner or outer harbor line or the boundaries or location of, or to replat any harbor area heretofore platted under and by virtue of sections 1 and 2, chapter 183, Laws of 1913, and the title to all shorelands heretofore purchased from the state as second class shorelands is hereby confirmed to such purchaser, his heirs and assigns, out to the inner harbor line heretofore established and platted under sections 1 and 2, chapter 183, Laws of 1913, or which shall be established and platted under RCW 79.94.230 and 79.94.250, and all reservations shown upon the plat made and filed pursuant to sections 1 and 2, chapter 183, Laws of 1913, are declared null and void, except reservations shown thereon for harbor area, and reservations in such harbor area, and reservations across shorelands for traversed streets which were extensions of streets existing across shorelands at the time of filing of such plat. Said department shall in platting said harbor area make a new plat showing all the harbor area on Lake Washington already platted under said sections 1 and 2, chapter 183, Laws of 1913, and under sections 1 and 2, chapter 150, Laws of 1917, and upon the adoption of any new plat by the board of natural resources acting as the harbor line commission, and the filing of said plat in the office of the commissioner of public lands, the title to all such harbor areas so selected shall remain in the state of Washington, and such harbor areas shall not be sold, but may be leased as provided for by law relating to the leasing of such harbor area. [1982 1st ex.s. c 21 § 109.]

79.94.250 Second class shorelands—Platting of certain shorelands of Lake Washington for use as harbor area—Selection for slips, docks, wharves, etc.—Vesting of title. Immediately after establishing the harbor area provided for in RCW 79.94.240, it shall be the duty of the department of natural resources to make a plat designating thereon all shorelands, of the first and second class, not theretofore sold by the state of Washington, and to select for the use of the public out of such shorelands, or out of harbor areas in front thereof, sites for slips, docks, wharves, warehouses,

streets, avenues, parkways, boulevards, alleys, commercial waterways, and other public purposes, insofar as such shorelands may be available for any or all such public purposes.

Upon the filing of such plat of shorelands with such reservations and selections thereon in the office of the commissioner of public lands, the title to all selections for streets, avenues, and alleys shall vest in any city or town within the corporate limits of which they may be then situate, otherwise in the county in which they are situate. The title to and control of any land so selected and designated upon such plat for parkway and boulevard purposes shall, if the same lie outside the corporate limits of any city or town, and if the same form a part of the general parkway and boulevard system of the city of the first class, be in such city. The title to all selections for commercial waterway purposes shall vest in the commercial waterway district in which situate, or for which selected, and the title to all selections for slips, docks, wharves, warehouses and other purposes shall vest in the port district if they be situate in a port district, otherwise in the county in which situated, and any sales of such shorelands when otherwise permitted by law shall be made subject to such selection and reservation for public use. [1982 1st ex.s. c 21 § 110.]

79.94.260 Second class shorelands—Sale or lease when in best public interest—Preference right of upland owner—Procedure upon determining sale or lease not in best public interest or where transfer made for public use—Platting. If application is made to purchase or lease any shorelands of the second class and the department of natural resources shall deem it for the best public interest to offer said shorelands of the second class for sale or lease, the department shall cause a notice to be served upon the abutting upland owner if he be a resident of the state, or if the upland owner be a non-resident of the state, shall mail to his last known post office address, as reflected in the county records a copy of a notice notifying him that the state is offering such shorelands for sale or lease, giving a description of the department's appraised fair market value of such shorelands for sale or lease, and notifying such upland owner that he has a preference right to purchase, if such purchase is otherwise permitted under RCW 79.94.150, or lease said shorelands at the appraised value thereof for a period of thirty days from the date of the service or mailing of said notice. If at the expiration of the thirty days from the service or mailing of the notice, as provided in this section, the abutting upland owner has failed to avail himself of his preference right to purchase, as otherwise permitted under RCW 79.94.150, or lease, or to pay to the department the appraised value for sale or lease of the shorelands described in said notice, then in that event, except as otherwise provided in this section, said shorelands may be offered for sale, when otherwise permitted under RCW 79.94.150, or offered for lease, and sold or leased in the manner provided for the sale or lease of state lands, as otherwise permitted under this chapter.

The department of natural resources shall authorize the sale or lease, whether to abutting upland owners or others, only if such sale or lease would be in the best public interest and is otherwise permitted under RCW 79.94.150. It is the intent of the legislature that whenever it is in the best public interest, the shorelands of the second class managed by the department of natural resources shall not be sold but shall be maintained in public ownership for the use and benefit of the people of the state.

In all cases where application is made for the lease of any second class shorelands adjacent to upland, under the provisions of this section, the same shall be leased per lineal chain frontage, and the United States field notes of the meander line shall accompany each application as required for the sale of such lands, and when application is made for the lease of second class shorelands separated from the upland by navigable waters, the application shall be accompanied by the plat and field notes of a survey of the lands applied for, as required with applications for the purchase of such lands.

If, following an application by the abutting upland owner to either purchase as otherwise permitted under RCW 79.94.150 or to obtain an exclusive lease at appraised full market value or rental, the department deems that such sale or lease is not in the best public interest, or if property rights in state-owned second class shorelands are at any time withdrawn, sold, or assigned in any manner authorized by law to a public agency for a use by the general public, the department shall within one hundred and eighty days from receipt of such application to purchase or lease, or on reaching a decision to withdraw, sell or assign such shorelands to a public agency, and: (1) Make a formal finding that the body of water adjacent to such shorelands is navigable; (2) find that the state or the public has an overriding interest inconsistent with a sale or exclusive lease to a private person, and specifically identify such interest and the factor or factors amounting to such inconsistency; and (3) provide for the review of said decision in accordance with the procedures prescribed by chapter 34.04 RCW.

Notwithstanding the above provisions, the department may cause any of such shorelands to be platted as is provided for the platting of shorelands of the first class, and when so platted such lands shall be sold, when otherwise permitted under RCW 79.94.150 to be sold, or leased in the manner provided for the sale or lease of shorelands of the first class. [1982 1st ex.s. c 21 § 111.]

79.94.270 Second class tide or shore lands detached from uplands by navigable water—Sale. Tide or shore lands of the second class which are separated from the upland by navigable waters shall be sold, when otherwise permitted under RCW 79.94.150 to be sold, but in no case at less than five dollars per acre. An applicant to purchase such tide or shore lands shall, at his own expense, survey and file with his application a plat of the surveys of the land applied for, which survey shall be connected with, and the plat shall show, two or more connections with the United States survey of the uplands, and the applicant shall file the field notes of the

survey of said land with his application. The department of natural resources shall examine and test said plat and field notes of the survey, and if found incorrect or indefinite, it shall cause the same to be corrected or may reject the same and cause a new survey to be made. [1982 1st ex.s. c 21 § 112.]

79.94.280 First class unplatted tide or shore lands—Lease preference right to upland owners—Lease for booming purposes. The department of natural resources is authorized to lease to the abutting upland owner any unplatted first class tide or shore lands.

The department shall, prior to the issuance of any lease under the provisions of this section, fix the annual rental for said tide or shore lands and prescribe the terms and conditions of the lease. No lease issued under the provisions of this section shall be for a longer term than ten years from the date thereof, and every such lease shall be subject to termination upon ninety days' notice to the lessee in the event that the department shall decide that it is in the best interest of the state that such tide or shore lands be surveyed and platted. At the expiration of any lease issued under the provisions of this section, the lessee or his successors or assigns shall have a preference right to re-lease the lands covered by the original lease or any portion thereof, if the department shall deem it to be in the best interests of the state to re-lease the same, for succeeding periods not exceeding five years each at such rental and upon such terms and conditions as may be prescribed by said department.

In case the abutting uplands are not improved and occupied for residential purposes and the abutting upland owner has not filed an application for the lease of such lands, the department may lease the same to any person for booming purposes under the terms and conditions of this section: *Provided*, That failure to use for booming purposes any lands leased under this section for such purposes for a period of one year shall work a forfeiture of such lease and such land shall revert to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the department of natural resources. [1982 1st ex.s. c 21 § 113.]

79.94.290 Second class tide or shore lands—Lease for booming purposes. The department of natural resources is authorized to lease any second class tide or shore lands, whether reserved from sale, or from lease for other purposes, by or under authority of law, or not, except any oyster reserve containing oysters in merchantable quantities, to any person, for booming purposes, for any term not exceeding ten years from the date of such lease, for such annual rental and upon such terms and conditions as the department may fix and determine, and may also provide for forfeiture and termination of any such lease at any time for failure to pay the fixed rental or for any violation of the terms or conditions thereof.

The lessee of any such lands for booming purposes shall receive, hold, and sort the logs and other timber products of all persons requesting such service and upon the same terms and without discrimination, and may

charge and collect tolls for such service not to exceed seventy-five cents per thousand feet scale measure on all logs, spars, or other large timber and reasonable rates on all other timber products, and shall be subject to the same duties and liabilities, so far as the same are applicable, as are imposed upon boom companies organized under the laws of the state: *Provided*, That failure to use any lands leased under the provisions of this section for booming purposes for a period of one year shall work a forfeiture of such lease, and such lands shall revert to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

At the expiration of any lease issued under the provisions of this section, the lessee shall have the preference right to re-lease the lands covered by his original lease for a further term, not exceeding ten years, at such rental and upon such terms and conditions as may be prescribed by the department of natural resources. [1982 1st ex.s. c 21 § 114.]

79.94.300 First and second class tide or shore lands—Preference rights, time limit on exercise. All preference rights to purchase tide or shore lands of the first or second class, when otherwise permitted by RCW 79.94.150 to be purchased, awarded by the department of natural resources, or by the superior court in case of appeal from the award of the department, shall be exercised by the parties to whom the award is made within thirty days from the date of the service of notice of the award by registered mail, by the payment to the department of the sums required by law to be paid for a contract, or deed, as in the case of the sale of state lands, other than capitol building lands, and upon failure to make such payment such preference rights shall expire. [1982 1st ex.s. c 21 § 115.]

79.94.310 First and second class tide or shore lands—Accretions—Lease. Any accretions that may be added to any tract or tracts of tide or shore lands of the first or second class heretofore sold, or that may hereafter be sold, by the state, shall belong to the state and shall not be sold, or offered for sale, unless otherwise permitted by this chapter to be sold, and unless the accretions shall have been first surveyed under the direction of the department of natural resources: *Provided*, That the owner of the adjacent tide or shore lands shall have the preference right to purchase said lands produced by accretion, when otherwise permitted by RCW 79.94.150 to be sold, for thirty days after said owner of the adjacent tide or shore lands shall have been notified by registered mail of his preference right to purchase such accreted lands. [1982 1st ex.s. c 21 § 116.]

79.94.320 Tide or shore lands of the first or second class—Failure to re-lease tide or shore lands—Appraisal of improvements. In case any lessee of tide or shore lands, for any purpose except mining of valuable minerals or coal, or extraction of petroleum or gas, or his successor in interest, shall after the expiration of any lease, fail to purchase, when otherwise permitted under

RCW 79.94.150 to be purchased, or re-lease from the state the tide or shore lands formerly covered by his lease, when the same are offered for sale or re-lease, then and in that event the department of natural resources shall appraise and determine the value of all improvements existing upon such tide or shore lands at the expiration of the lease which are not capable of removal without damage to the land, including the cost of filling and raising said property above high tide, or high water, whether filled or raised by the lessee or his successors in interest, or by virtue of any contract made with the state, and also including the then value to the land of all existing local improvements paid for by such lessee or his successors in interest. In case the lessee or his successor in interest is dissatisfied with the appraised value of such improvements as determined by the department, he shall have the right of appeal to the superior court of the county wherein said tide or shore lands are situated, within the time and according to the method prescribed in RCW 79.90.400 for taking appeals from decisions of the department.

In case such tide or shore lands are leased, or sold, to any person other than such lessee or his successor in interest, within three years from the expiration of the former lease, the bid of such subsequent lessee or purchaser shall not be accepted until payment is made by such subsequent lessee or purchaser of the appraised value of the improvements as determined by the department, or as may be determined on appeal, to such former lessee or his successor in interest.

In case such tide or shore lands are not leased, or sold, within three years after the expiration of such former lease, then in that event, such improvements existing on the lands at the time of any subsequent lease, shall belong to the state and be considered a part of the land, and shall be taken into consideration in appraising the value, or rental value, of the land and sold or leased with the land. [1982 1st ex.s. c 21 § 117.]

79.94.330 Location of line dividing tidelands from shorelands in tidal rivers. The department of natural resources is hereby authorized to locate in all navigable rivers in this state which are subject to tidal flow, the line dividing the tidelands in such river from the shorelands in such river, and such classification or the location of such dividing line shall be final and not subject to review, and the department shall enter the location of said line upon the plat of the tide and shore lands affected. [1982 1st ex.s. c 21 § 118.]

79.94.340 Queets to Flattery tidelands declared public highway—Reservation from sale or lease—Leases not to be extended. The tidelands along the shore and beach of the Pacific ocean from the mouth of the Queets river north to Cape Flattery in the state of Washington, excepting, however, such rights as may have been conveyed by the state through deeds covering the second class tidelands in front of section 24, township 31 north, range 16 west, W.M., be and the same are hereby declared a public highway forever and as such

highway shall remain forever open to the use of the public.

No part of the tidelands along said shore and beach shall ever be sold, or otherwise disposed of, or leased for any purpose other than the extraction of petroleum, gas, or minerals.

No leases, except those issued for extraction of petroleum, gas, or minerals, now existing on or for any part or parts of said tidelands along said shore and beach shall be renewed or extended. [1982 1st ex.s. c 21 § 119.]

79.94.350 Damon's Point to Queets tidelands declared public highway—Reservation from sale, lease, etc. The shore and beach of the Pacific ocean including the area or space lying between ordinary high tide and extreme low tide (as such shore and beach now are or hereafter may be) from the southerly point of Damon's Point on the north side of the entrance to Grays Harbor to the mouth of the Queets river, state of Washington, be and the same are hereby declared a public highway forever, and such highway shall remain forever open to the use of the public.

No part of said shore or beach shall ever be sold, leased, or otherwise disposed of. [1982 1st ex.s. c 21 § 120.]

79.94.360 Columbia river to Peterson's Point tidelands declared public highway—Reservation from sale, lease, etc. The shore and beach of the Pacific ocean, including the area or space lying, abutting, or fronting on said ocean and between ordinary high tide and extreme low tide (as such shore and beach are now or hereafter may be) from the Columbia river or Cape Disappointment on the south to a point three hundred feet southerly from the south line of the government jetty on Peterson's Point, state of Washington, on the north, be and the same are hereby declared a public highway forever, and as such highway shall remain forever open to the use of the public.

No part of said shore or beach shall ever be sold, conveyed, leased, or otherwise disposed of. [1982 1st ex.s. c 21 § 121.]

79.94.370 Highways established by Laws of 1901 and 1935—Portion declared public recreation area—Reservation. That portion of the public highway as established by chapter 54, Laws of 1935, chapter 105, Laws of 1901, and chapter 110, Laws of 1901, lying between the line of vegetation and the line of mean high tide, as such lines now are or may hereafter be, is hereby declared a public recreation area and is hereby set aside and forever reserved for the use of the public. [1982 1st ex.s. c 21 § 122.]

79.94.380 Highways—Acquisition of property. The department of natural resources may acquire by purchase, gift, exchange, or condemnation any lands, property, or interest therein from any political subdivision of the state, municipal corporation, the federal government, or any person for the purpose of expanding,

improving, or facilitating the use of lands reserved under RCW 79.94.340 through 79.94.370 for such public highway and recreation purposes. [1982 1st ex.s. c 21 § 123.]

79.94.390 Certain tidelands reserved for recreational use and taking of fish and shellfish. The following described tidelands, being public lands of the state, are withdrawn from sale or lease and reserved as public areas for recreational use and for the taking of fish and shellfish for personal use as defined in RCW 75.04.070:

Parcel No. 1. (Point Whitney) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to or abutting upon lots 3, 4, and 5, section 7, township 26 north, range 1 west, W.M., with a frontage of 72.45 lineal chains, more or less.

Excepting, however, those portions of the above described tidelands of the second class conveyed to the state of Washington, department of fisheries and game through deed issued May 14, 1925, under application No. 8136, records of department of public lands.

Parcel No. 2. (Point Whitney) The tidelands of the second class lying below the line of mean low tide, owned by the state of Washington, situate in front of lot 1, section 6, township 26 north, range 1 west, W.M., with a frontage of 21.00 lineal chains, more or less; also

The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to or abutting upon lots 6 and 7, and that portion of lot 5, section 1, township 26 north, range 1 west, W.M., lying south of a line running due west from a point on the government meander line which is S 22° E 1.69 chains from an angle point in said meander line which is S 15° W 1.20 chains, more or less, from the point of intersection of the north line of said lot 5 and said meander line, with a frontage of 40.31 lineal chains, more or less.

Parcel No. 3. (Toandos Peninsula) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3, section 4, and lot 1, section 3, all in township 25 north, range 1 west, W.M., with a frontage of 158.41 lineal chains, more or less.

Parcel No. 4. (Shine) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4 lying north of the south 8.35 chains thereof as measured along the government meander line, all in section 35, township 28 north, range 1 east, W.M., with a frontage of 76.70 lineal chains, more or less.

Subject to an easement for right of way for county road granted to Jefferson county December 8, 1941 under application No. 1731, records of department of public lands.

Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned by the state of Washington, lying easterly of the east line of vacated state oyster reserve plat No. 133 produced southerly and situate in front of, adjacent to or abutting upon lot 9, section 30, lot 8, section 19 and lot 5 and the south 20 acres of lot 4, section 20, all in township 23 north, range 3 west, W.M., with a frontage of 62.46 lineal chains, more or less.

Subject to easements for rights of way for state road granted through the filing of state road plats No. 374 December 15, 1930, No. 661, March 29, 1949, and No. 666 August 25, 1949, records of department of public lands.

Parcel No. 6. (Nemah) Those portions of the tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 5, 6, and 7, section 3 and lots 1, 2, and 3, section 4, township 12 north, range 10 west, W.M., lots 1, 2, 3, and 4, section 34, section 27 and lots 1, 2, 3 and 4, section 28, township 13 north, range 10 west, W.M., lying easterly of the easterly line of the Nemah Oyster reserve and easterly of the easterly line of a tract of tidelands of the second class conveyed through deed issued July 28, 1938, pursuant to the provisions of chapter 24, Laws of 1895, under application No. 9731, with a frontage of 326.22 lineal chains, more or less.

Parcels No. 7 and 8. (Penn Cove) The unplatted tidelands of the first class, and tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1 and 2, section 33, lots 1, 2, 3, and 4, section 32, lots 2 and 3 and the B.P. Barstow D.L.C. No. 49, sections 30 and 31 and that portion of the R.H. Lansdale D.L.C. No. 54 in section 30, lying west of the east 3.00 chains thereof as measured along the government meander line, all in township 32 north, range 1 east, W.M., with a frontage of 260.34 lineal chains, more or less.

Excepting, however, the tidelands above the line of mean low tide in front of said lot 1, section 32 which were conveyed as tidelands of the second class through deed issued December 29, 1908, application No. 4957, records of department of public lands.

Subject to an easement for right of way for transmission cable line granted to the United States of America Army Engineers June 7, 1943, under application No. 17511, records of department of public lands.

Parcel No. 9. (South of Penn Cove) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 2, 3 and 4, section 17 and lots 1, 2 and 3, section 20, township 31 north, range 2 east, W.M., with a frontage of 129.97 lineal chains, more or less.

Parcel No. 10. (Mud Bay—Lopez Island) The tidelands of the second class, owned by the state of Washington situate in front of, adjacent to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and lots 3, 4, and 5, section 8, all in township 34 north, range 1 west, W.M., with a frontage of 172.11 lineal chains, more or less.

Excepting, however, any tideland of the second class in front of said lot 3, section 8 conveyed through deeds issued April 14, 1909, pursuant to the provisions of chapter 24, Laws of 1895, under application No. 4985, records of department of public lands.

Parcel No. 11. (Cattle Point) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lot 1, section 6, lots 1, 3, 4, 5, 6, 7, 8, 9, and 10, section 7, lots 1, 2, 3, 4, 5, 6 and 7, section 8 and lot 1, section 5, all in township

34 north, range 2 west, W.M., with a frontage of 463.88 lineal chains, more or less.

Excepting, however, any tidelands of the second class in front of said lot 10, section 7 conveyed through deed issued June 1, 1912, under application No. 6906, records of department of public lands.

Parcel No. 12. (Spencer Spit) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal chains, more or less. [1982 1st ex.s. c 21 § 124.]

79.94.400 Access to and from tidelands reserved for recreational use and taking of fish and shellfish. The director of fisheries may take appropriate action to provide public and private access, including roads and docks, to and from the tidelands described in RCW 79.94.390. [1982 1st ex.s. c 21 § 125.]

79.94.410 Tidelands and shorelands—Use of tide and shore lands granted to United States—Purposes—Limitations. The use of any tide and shore lands belonging to the state, and adjoining and bordering on any tract, piece or parcel of land, which may have been reserved or acquired, or which may hereafter be reserved or acquired, by the government of the United States, for the purposes of erecting and maintaining thereon forts, magazines, arsenals, dockyards, navy yards, prisons, penitentiaries, lighthouses, fog signal stations, aviation fields, or other aids to navigation, be and the same is hereby granted to the United States, upon payment for such rights, so long as the upland adjoining such tide or shore lands shall continue to be held by the government of the United States for any of the public purposes above mentioned: *Provided*, That this grant shall not extend to or include any aquatic lands covered by more than four fathoms of water at ordinary low tide; and shall not be construed to prevent any citizen of the state from using said lands for the taking of food fishes so long as such fishing does not interfere with the public use of them by the United States. [1982 1st ex.s. c 21 § 126.]

79.94.420 Tidelands and shorelands—Use of tide and shore lands granted to United States—Application—Proof of upland use—Conveyance. Whenever application is made to the department of natural resources by any department of the United States government for the use of any tide or shore lands belonging to the state and adjoining and bordering on any upland held by the United States for any of the purposes mentioned in RCW 79.94.410, upon proof being made to said department of natural resources, that such uplands are so held by the United States for such purposes, and upon payment for such land, it shall cause such fact to be entered in the records of the office of the commissioner of public lands and the department shall certify such fact to the governor who will execute a deed in the name of the state, attested by the secretary of state, conveying the use of such lands, for such purposes, to

the United States, so long as it shall continue to hold for said public purposes the uplands adjoining said tide and shore lands. [1982 1st ex.s. c 21 § 127.]

79.94.430 Tidelands and shorelands—Use of tide and shore lands granted to United States—Easements over tide or shore lands to United States. Whenever application is made to the department of natural resources, by any department of the United States government, for the use of any tide or shore lands belonging to the state, for any public purpose, and said department shall be satisfied that the United States requires or may require the use of such tide or shore lands for such public purposes, said department may reserve such tide or shore lands from public sale and grant the use of them to the United States, upon payment for such land, so long as it may require the use of them for such public purposes. In such a case, the department shall execute an easement to the United States, which grants the use of said tide or shore lands to the United States, so long as it shall require the use of them for said public purpose. [1982 1st ex.s. c 21 § 128.]

79.94.440 Tidelands and shorelands—Use of tide and shore lands granted to United States—Reversion on cessation of use. Whenever the United States shall cease to hold and use any uplands for the use and purposes mentioned in RCW 79.94.410, or shall cease to use any tide or shore lands for the purpose mentioned in RCW 79.94.430, the grant or easement of such tide or shore lands shall be terminated thereby, and said tide or shore lands shall revert to the state without resort to any court or tribunal. [1982 1st ex.s. c 21 § 129.]

79.94.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21. See RCW 79.96.900 through 79.96.905.

Chapter 79.95

AQUATIC LANDS—BEDS OF NAVIGABLE WATERS

(Effective July 1, 1983)

Sections	
79.95.010	Lease of beds of navigable waters.
79.95.020	Lease of beds of navigable waters—Terms and conditions of lease—Forfeiture for nonuser.
79.95.030	Lease of beds of navigable waters—Improvements—Federal permit—Forfeiture—Plans and specifications.
79.95.040	Lease of beds of navigable waters—Preference right to re-lease.
79.95.900	Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21.

79.95.010 Lease of beds of navigable waters. The department of natural resources may lease to the abutting tide or shore land owner or lessee, the beds of navigable waters lying below the line of extreme low tide in waters where the tide ebbs and flows, and below the line of navigability in lakes and rivers claimed by the state and defined in section 1, Article XVII, of the Constitution of the state.

In case the abutting tide or shore lands or the abutting uplands are not improved or occupied for residential or commercial purposes, the department may lease such beds to any person for a period not exceeding ten years for booming purposes.

Nothing in this chapter shall change or modify any of the provisions of the state Constitution or laws of the state which provide for the leasing of harbor areas and the reservation of lands lying in front thereof. [1982 1st ex.s. c 21 § 130.]

79.95.020 Lease of beds of navigable waters—Terms and conditions of lease—Forfeiture for nonuser. The department of natural resources shall, prior to the issuance of any lease under the provisions of this chapter, fix the annual rental and prescribe the terms and conditions of the lease: *Provided*, That in fixing such rental, the department shall not take into account the value of any improvements heretofore or hereafter placed upon the lands by the lessee.

No lease issued under the provisions of this chapter shall be for a term longer than thirty years from the date thereof if in front of second class tide or shore lands; or a term longer than ten years if in front of unplatted first class tide or shore lands leased under the provisions of RCW 79.94.280, in which case said lease shall be subject to the same terms and conditions as provided for in the lease of such unplatted first class tide or shore lands. Failure to use those beds leased under the provisions of this chapter for booming purposes, for a period of two years shall work a forfeiture of said lease and the land shall revert to the state without notice to the lessee upon the entry of a declaration of forfeiture in the records of the commissioner of public lands. [1982 1st ex.s. c 21 § 131.]

79.95.030 Lease of beds of navigable waters—Improvements—Federal permit—Forfeiture—Plans and specifications. The applicant for a lease under the provisions of this chapter shall first obtain from the United States Army Corps of Engineers or other federal regulatory agency, a permit to place structures or improvements in said navigable waters and file with the department of natural resources a copy of said permit. No structures or improvements shall be constructed beyond a point authorized by the Corps of Engineers or the department of natural resources and any construction beyond authorized limits will work a forfeiture of all rights granted by the terms of any lease issued under the provisions of this chapter. The applicant shall also file plans and specifications of any proposed improvements to be placed upon such areas with the department of natural resources, said plans and specifications to be the same as provided for in the case of the lease of harbor areas. [1982 1st ex.s. c 21 § 132.]

79.95.040 Lease of beds of navigable waters—Preference right to re-lease. At the expiration of any lease issued under the provisions of this chapter, the lessee or his successors or assigns, shall have a preference right to re-lease the area covered by the original lease or

any portion thereof if the department of natural resources deems it to be in the best interest of the state to re-lease the same. Such re-lease shall be for such term as specified by the provisions of this chapter, and at such rental and upon such conditions as may be prescribed by the department: *Provided*, That if such preference right is not exercised, the rights and obligations of the lessee, the department of natural resources, and any subsequent lessee shall be the same as provided in RCW 79.94.320 relating to failure to re-lease tide or shore lands. Any person who prior to June 11, 1953, had occupied and improved an area subject to lease under this chapter and has secured a permit for such improvements from the United States Army Corps of Engineers, or other federal regulatory agency, shall have the rights and obligations of a lessee under this section upon the filing of a copy of such permit together with plans and specifications of such improvements with the department of natural resources. [1982 1st ex.s. c 21 § 133.]

79.95.900 Study—Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21. See RCW 79.96.900 through 79.96.905.

Chapter 79.96

AQUATIC LANDS—OYSTERS, GEODUCKS, SHELLFISH, AND OTHER AQUACULTURAL USES (Effective July 1, 1983)

Sections	
79.96.010	Leasing beds of tidal waters for shellfish cultivation or other aquaculture use.
79.96.020	Leasing lands for shellfish cultivation or other aquaculture use—Who may lease—Application—Deposit.
79.96.030	Leasing lands for shellfish cultivation or other aquaculture use—Inspection and report by director of fisheries—Rental and term.
79.96.040	Leasing lands for shellfish cultivation or other aquaculture use—Survey and boundary markers.
79.96.050	Leasing lands for shellfish cultivation or other aquaculture use—Renewal lease.
79.96.060	Leasing lands for shellfish cultivation or other aquaculture use—Reversion for use other than cultivation of shellfish.
79.96.070	Leasing lands for shellfish cultivation or other aquaculture use—Abandonment—Application for other lands.
79.96.080	Geoduck harvesting—Leases, agreements, regulation.
79.96.090	Lease of tidelands set aside as oyster reserves.
79.96.100	Inspection and report by director of fisheries.
79.96.110	Vacation of reserve—Lease of lands.
79.96.120	Sale of reserved or reversionary rights in tidelands.
79.96.900	Study—1982 1st ex.s. c 21.
79.96.901	Savings—1982 1st ex.s. c 21.
79.96.902	Captions—1982 1st ex.s. c 21.
79.96.903	Severability—1982 1st ex.s. c 21.
79.96.904	Effective date—1982 1st ex.s. c 21 §§ 176, 179.
79.96.905	Effective date—1982 1st ex.s. c 21.

79.96.010 Leasing beds of tidal waters for shellfish cultivation or other aquaculture use. The beds of all navigable tidal waters in the state lying below extreme low tide, except as prohibited by section 1, Article XV, of the Washington state Constitution shall be subject to lease for the purposes of planting and cultivating oyster

beds, or for the purpose of cultivating clams or other edible shellfish, or for other aquaculture use, for periods not to exceed ten years.

Where the lands are used for the cultivation and harvesting of oysters, the parcels leased shall not exceed forty acres.

Where the lands are used for the cultivation and harvesting of clams or other aquaculture use, the department of natural resources may, in its discretion, grant leases for larger parcels.

Nothing in this section shall prevent any person from leasing more than one parcel, as offered by the department. [1982 1st ex.s. c 21 § 134.]

79.96.020 Leasing lands for shellfish cultivation or other aquaculture use—Who may lease—Application—Deposit. Any person desiring to lease tidelands or beds of navigable waters for the purpose of planting and cultivating oyster beds, or for the purpose of cultivating clams and other edible shellfish, shall file with the department of natural resources, on a proper form, an application in writing signed by the applicant and accompanied by a map of the lands desired to be leased, describing the lands by metes and bounds tied to at least two United States government corners, and by such reference to local geography as shall suffice to convey a knowledge of the location of the lands with reasonable accuracy to persons acquainted with the vicinity, and accompanied by a deposit of ten dollars which deposit shall be returned to the applicant in case a lease is not granted. [1982 1st ex.s. c 21 § 135.]

79.96.030 Leasing lands for shellfish cultivation or other aquaculture use—Inspection and report by director of fisheries—Rental and term. The department of natural resources, upon the receipt of an application for a lease for the purpose of planting and cultivating oyster beds or for the purpose of cultivating clams or other edible shellfish, shall notify the director of fisheries of the filing of the application describing the tidelands or beds of navigable waters applied for. The director of fisheries shall cause an inspection of the lands applied for to be made and shall make a full report to the department of natural resources of his findings as to whether it is necessary, in order to protect existing natural oyster beds, and to secure adequate seeding thereof, to retain the lands described in the application for lease or any part thereof, and in the event the director deems it advisable to retain the lands or any part thereof for the protection of existing natural oyster beds or to guarantee the continuance of an adequate seed stock for existing natural oyster beds, the same shall not be subject to lease. However, if the director determines that the lands applied for or any part thereof may be leased, he shall so notify the department of natural resources and the director shall cause an examination of the lands to be made to determine the presence, if any, of natural oysters, clams, or other edible shellfish on said lands, and to fix the rental value of the lands for use for oyster, clam, or other edible shellfish cultivation. In his report to the department, the director shall recommend a minimum rental for said

lands and an estimation of the value of the oysters, clams, or other edible shellfish, if any, then present on the lands applied for. The lands approved by the director for lease may then be leased to the applicant for a period of not less than five years nor more than ten years at a rental not less than the minimum rental recommended by the director of fisheries. In addition, before entering upon possession of the land, the applicant shall pay the value of the oysters, clams, or other edible shellfish, if any, then present on the land as determined by the director, plus the expense incurred by the director in investigating the quantity of oysters, clams, or other edible shellfish, present on the land applied for. [1982 1st ex.s. c 21 § 136.]

79.96.040 Leasing lands for shellfish cultivation or other aquaculture use—Survey and boundary markers. Before entering into possession of any leased tidelands or beds of navigable waters, the applicant shall cause the same to be surveyed by a registered land surveyor, and he shall furnish to the department of natural resources and to the director of fisheries, a map of the leased premises signed and certified by the registered land surveyor. The lessee shall also cause the boundaries of the leased premises to be marked by piling monuments or other markers of a permanent nature as the director of fisheries may direct. [1982 1st ex.s. c 21 § 137.]

79.96.050 Leasing lands for shellfish cultivation or other aquaculture use—Renewal lease. The department of natural resources may, upon the filing of an application for a renewal lease, cause the tidelands or beds of navigable waters to be inspected, and if he deem[s] it in the best interests of the state to re-lease said lands, he shall issue to the applicant a renewal lease for such further period not exceeding ten years and under such terms and conditions as may be determined by the department: *Provided*, That in the case of an application for a renewal lease it shall not be necessary for the lands to be inspected and reported upon by the director of fisheries. [1982 1st ex.s. c 21 § 138.]

79.96.060 Leasing lands for shellfish cultivation or other aquaculture use—Reversion for use other than cultivation of shellfish. All leases of tidelands and beds of navigable waters for the purpose of planting and cultivating oysters, clams, or other edible shellfish shall expressly provide that if at any time after the granting of said lease, the lands described therein shall cease to be used for the purpose of oyster beds, clam beds, or other edible shellfish beds, they shall thereupon revert to and become the property of the state and that the same are leased only for the purpose of cultivating oysters, clams, or other edible shellfish thereon, and that the state reserves the right to enter upon and take possession of said lands if at any time the same are used for any other purpose than the cultivation of oysters, clams, or other edible shellfish. [1982 1st ex.s. c 21 § 139.]

79.96.070 Leasing lands for shellfish cultivation or other aquaculture use—Abandonment—Application

for other lands. If from any cause any lands leased for the purpose of planting and cultivating oysters, clams, or other edible shellfish shall become unfit and valueless for any such purposes, the lessee or his assigns, upon certifying such fact under oath to the department of natural resources, together with the fact that he has abandoned such land, shall be entitled to make application for other lands for such purposes. [1982 1st ex.s. c 21 § 140.]

79.96.080 Geoduck harvesting—Leases, agreements, regulation. (1) The department of natural resources may enter into leases or harvesting agreements for the harvesting of geoducks. The department of natural resources may place terms and conditions in the leases or harvesting agreements as the department deems necessary. The department of natural resources may enforce the provisions of any lease or harvesting agreement by suspending or canceling the lease or harvesting agreement or through any other means contained in the lease or harvesting agreement. The department of natural resources may cancel any lease or harvesting agreement upon receiving a report from the department of fisheries of the person's second violation of the geoduck licensing or harvesting provisions under Title 75 RCW. Any lessee may terminate a lease entered into pursuant to this subsection if actions of a governmental agency, beyond the control of the lessee, its agents, or its employees, prohibit harvesting, for a period exceeding thirty days, during the term of the harvesting agreement. Upon termination of the lease, the lessee shall be reimbursed by the lessor for the cost paid on the lease less the value of the harvest already accomplished by the lessee on the leasehold.

(2) After May 8, 1979, all leases or harvesting agreements under this title for the purpose of harvesting geoduck clams shall require the lessee and the lessee's agent or representatives to comply with all applicable commercial diving safety standards and regulations promulgated and implemented by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 as such law exists on July 1, 1983 (84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq.): *Provided*, That for the purposes of this section and RCW 75.24.100 as now or hereafter amended, all persons who dive for geoducks are deemed to be employees as defined by the federal occupational safety and health act. All leases shall provide that failure to comply with these standards is cause for suspension or cancellation of the lease: *Provided further*, That for the purposes of this subsection if the lessee is the holder of a tract license and contracts with another entity for the harvesting of geoducks, the lease shall not be suspended or canceled if the lessee terminates its business relationship with such entity until compliance with the subsection is secured. [1982 1st ex.s. c 21 § 141.]

79.96.090 Lease of tidelands set aside as oyster reserves. The department of natural resources is hereby authorized to lease first or second class tidelands which have heretofore or which may hereafter be set aside as state oyster reserves in the same manner as provided

elsewhere in this chapter for the lease of those lands. [1982 1st ex.s. c 21 § 142.]

79.96.100 Inspection and report by director of fisheries. The department of natural resources, upon the receipt of an application for the lease of any first or second class tidelands owned by the state which have heretofore or which may hereafter be set aside as state oyster reserves, shall notify the director of fisheries of the filing of the application describing the lands applied for. It shall be the duty of the director of fisheries to cause an inspection of the reserve to be made for the purpose of determining whether said reserve or any part thereof should be retained as a state oyster reserve or vacated. [1982 1st ex.s. c 21 § 143.]

79.96.110 Vacation of reserve—Lease of lands. In case the director of fisheries approves the vacation of the whole or any part of said reserve, the department of natural resources may vacate and offer for lease such parts or all of said reserve as it deems to be for the best interest of the state, and all moneys received for the lease of such lands shall be paid to the department of natural resources in accordance with RCW 79.94.190: *Provided*, That nothing in RCW 79.96.090 through 79.96.110 shall be construed as authorizing the lease of any tidelands which have heretofore, or which may hereafter, be set aside as state oyster reserves in Eld Inlet, Hammersley Inlet, or Totten Inlet, situated in Mason or Thurston counties: *Provided further*, That any portion of Plat 138, Clifton's Oyster Reserve, which has already been vacated, may be leased by the department. [1982 1st ex.s. c 21 § 144.]

79.96.120 Sale of reserved or reversionary rights in tidelands. Upon an application to purchase the reserved and reversionary rights of the state in any tidelands sold under the provisions of chapter 24 of the Laws of 1895, or chapter 25 of the Laws of 1895, or chapter 165 of the Laws of 1919, or either such reserved or reversionary right if only one exists, being filed in the office of the commissioner of public lands by the owner of such tidelands, accompanied by an abstractor's certificate, or other evidence of the applicant's title to such lands, the department of natural resources, if it finds the applicant is the owner of the tidelands, is authorized to inspect, appraise, and sell, if otherwise permitted under RCW 79.94.150, for not less than the appraised value, such reserved or reversionary rights of the state to the applicant, and upon payment of the purchase price to cause a deed to be issued therefor as in the case of the sale of state lands, or upon the payment of one-fifth of the purchase price, to issue a contract of sale therefor, providing that the remainder of the purchase price may be paid in four equal annual installments, with interest on deferred payments at the rate of six percent per annum, or sooner at the election of the contract holder, which contract shall be subject to cancellation by the department of natural resources for failure to comply with its provisions, and upon the completion of the payments as provided in such contract to cause a deed to the lands

described in the contract to be issued to the holder thereof as in the case of the sale of state lands. [1982 1st ex.s. c 21 § 145.]

79.96.900 Study—1982 1st ex.s. c 21. A joint legislative committee on aquatic lands shall be convened to study the laws governing the management of state-owned marine lands, shorelands, and harbor areas and the manner in which the department of natural resources has interpreted and administered these laws in fulfillment of management responsibilities. The purpose of the study is to propose legislation which will (1) clearly define aquatic lands; (2) articulate a management philosophy; (3) provide procedures for managing and appraising these lands; (4) establish an administrative fee for residential recreational docks; and (5) address such other issues to be determined by the committee. The committee membership shall include three members of the house of representatives appointed by the speaker; and three members of the senate appointed by the president. The committee shall elect a chairman from among its members. The chairman shall appoint an aquatic lands task force to be comprised of department of natural resources representatives and other public and private entities affected by the administration of aquatic lands to make recommendations to the committee. The committee shall report its findings, not later than January 1, 1983, to the natural resources and environmental affairs committee of the house of representatives and the natural resources committee of the senate. [1982 1st ex.s. c 21 § 179.]

79.96.901 Savings—1982 1st ex.s. c 21. The enactment of this act including all repeals, decodifications, and amendments shall not be construed as affecting any existing right acquired under the statutes repealed, decodified, or amended or under any rule, regulation, or order issued pursuant thereto; nor as affecting any proceeding instituted thereunder. [1982 1st ex.s. c 21 § 181.]

79.96.902 Captions—1982 1st ex.s. c 21. Chapter and section headings as used in this act do not constitute any part of the law. [1982 1st ex.s. c 21 § 182.]

79.96.903 Severability—1982 1st ex.s. c 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 1st ex.s. c 21 § 184.]

79.96.904 Effective date—1982 1st ex.s. c 21 §§ 176, 179. Sections 176 (amending RCW 79.01.525) and 179 (creating a new section providing for an aquatic lands joint legislative committee) of this act are necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1982 1st ex.s. c 21 § 185.]

Reviser's note: "Section 179" is codified as RCW 79.96.900. The effective date of sections 176 and 179 is April 3, 1982.

79.96.905 Effective date—1982 1st ex.s. c 21. Except as provided in RCW 79.96.904, this act shall take effect July 1, 1983. [1982 1st ex.s. c 21 § 186.]

**APPENDIX
PUBLIC LAND ACTS OF SPECIAL OR
HISTORICAL NATURE NOT CODIFIED IN RCW**

<i>Subject</i>	<i>Year</i>	<i>Chapter</i>
	1897	28
	1905	76
	1907	3
	1909	30
	1909	221
	1913	59
	1915	115
Seattle.....	1925 ex.s.	127
	1927	267
	1929	177
	1931	33
	1939	77
	1949	81
	1957	81
	1957	252
	1981 1st ex.s.	1

**Title 80
PUBLIC UTILITIES**

Chapters

80.52 Energy financing voter approval act.

Chapter 80.52

ENERGY FINANCING VOTER APPROVAL ACT

<i>Sections</i>	<i>Short title.</i>
80.52.010	Short title.
80.52.020	Purpose.
80.52.030	Definitions.
80.52.040	Election approval required before issuance of bonds.
80.52.050	Conduct of election.
80.52.060	Form of ballot propositions.
80.52.070	Approval of request for financing authority.
80.52.080	Priorities.
80.52.900	Severability—1981 2nd ex.s. c 6.
80.52.910	Effective dates—1981 2nd ex.s. c 6.

80.52.010 Short title. This chapter may be cited as the Washington state energy financing voter approval act. [1981 2nd ex.s. c 6 § 1 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.020 Purpose. The purpose of this chapter is to provide a mechanism for citizen review and approval of proposed financing for major public energy projects. The development of dependable and economic energy sources is of paramount importance to the citizens of the state, who have an interest in insuring that major public energy projects make the best use of limited financial resources. Because the construction of major public energy projects will significantly increase utility rates for all citizens, the people of the state hereby establish a process of voter approval for such projects. [1981 2nd ex.s.

c 6 § 2 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.030 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Public agency" means a public utility district, joint operating agency, city, county, or any other state governmental agency, entity, or political subdivision.

(2) "Major public energy project" means a plant or installation capable, or intended to be capable, of generating electricity in an amount greater than two hundred fifty megawatts. Where two or more such plants are located within the same geographic site, each plant shall be considered a major public energy project. An addition to an existing facility is not deemed to be a major energy project unless the addition itself is capable, or intended to be capable, of generating electricity in an amount greater than two hundred fifty megawatts. A project which is under construction on July 1, 1982, shall not be considered a major public energy project unless the official agency budget or estimate for total construction costs for the project as of July 1, 1982, is more than two hundred percent of the first official estimate of total construction costs as specified in the senate energy and utilities committee WPPSS inquiry report, volume one, January 12, 1981, and unless, as of July 1, 1982, the projected remaining cost of construction for that project exceeds two hundred million dollars.

(3) "Cost of construction" means the total cost of planning and building a major public energy project and placing it into operation, including, but not limited to, planning cost, direct construction cost, licensing cost, cost of fuel inventory for the first year's operation, interest, and all other costs incurred prior to the first day of full operation, whether or not incurred prior to July 1, 1982.

(4) "Cost of acquisition" means the total cost of acquiring a major public energy project from another party, including, but not limited to, principal and interest costs.

(5) "Bond" means a revenue bond, a general obligation bond, or any other indebtedness issued by a public agency or its assignee.

(6) "Applicant" means a public agency, or the assignee of a public agency, requesting the secretary of state to conduct an election pursuant to this chapter.

(7) "Cost-effective" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(8) "System cost" means an estimate of all direct costs of a project or resource over its effective life, including, if applicable, the costs of distribution to the consumer, and, among other factors, waste disposal

costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as are directly attributable to the project or resource. [1981 2nd ex.s. c 6 § 3 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.040 Election approval required before issuance of bonds. No public agency or assignee of a public agency may issue or sell bonds to finance the cost of construction or the cost of acquisition of a major public energy project, or any portion thereof, unless it has first obtained authority for the expenditure of the funds to be raised by the sale of such bonds for that project at an election conducted in the manner provided in this chapter. [1981 2nd ex.s. c 6 § 4 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.050 Conduct of election. The election required under RCW 80.52.040 shall be conducted in the manner provided in this section.

(1) (a) If the applicant is a public utility district, joint operating agency, city, or county, the election shall be among the voters of the public utility district, city, or county, or among the voters of the local governmental entities comprising the membership of the joint operating agency.

(b) If the applicant is any public agency other than those described in subsection (1)(a) of this section, or is an assignee of a joint operating agency and not itself a joint operating agency, the election shall be conducted state-wide in the manner provided in Title 29 RCW for state-wide elections.

(2) The election shall be held at the next state-wide general election occurring more than ninety days after submission of a request by an applicant to the secretary of state unless a special election is requested by the applicant as provided in this section.

(3) If no state-wide election can be held under subsection (2) of this section within one hundred twenty days of the submission to the secretary of state of a request by an applicant for financing authority under this chapter, the applicant may request that a special election be held if such election is necessary to avoid significant delay in construction or acquisition of the energy project. Within ten days of receipt of such a request for a special election, the secretary of state shall designate a date for the election pursuant to RCW 29.13.010 and certify the date to the county auditor of each county in which an election is to be held under this section.

(4) Prior to an election under this section, the applicant shall submit to the secretary of state a cost-effectiveness study, prepared by an independent consultant approved by the state finance committee, pertaining to the major public energy project under consideration. The study shall be available for public review and comment for thirty days. At the end of the thirty-day period, the applicant shall prepare a final draft of the study which includes the public comment, if any.

(5) The secretary of state shall certify the ballot issue for the election to be held under this section to the county auditor of each county in which an election is to

be held. The certification shall include the statement of the proposition as provided in RCW 80.52.060. The costs of the election shall be relieved by the applicant in the manner provided by RCW 29.13.045. In addition, the applicant shall reimburse the secretary of state for the applicant's share of the costs related to the preparation and distribution of the voters' pamphlet required by subsection (6) of this section and such other costs as are attributable to any election held pursuant to this section.

(6) Prior to an election under this section, the secretary of state shall provide an opportunity for supporters and opponents of the requested financing authority to present their respective views in a voters' pamphlet which shall be distributed to the voters of the local governmental entities participating in the election. Upon submission of an applicant's request for an election pursuant to this section, the applicant shall provide the secretary of state with the following information regarding each major public energy project for which the applicant seeks financing authority at such election, which information shall be included in the voters' pamphlet:

(a) The name, location, and type of major public energy project, expressed in common terms;

(b) The dollar amount and type of bonds being requested;

(c) If the bond issuance is intended to finance the acquisition of all or a portion of the project, the anticipated total cost of the acquisition of the project;

(d) If the bond issuance is intended to finance the planning or construction of all or a portion of the project, the anticipated total cost of construction of the project;

(e) The projected average rate increase for consumers of the electricity to be generated by the project. The rate increase shall be that which will be necessary to repay the total indebtedness incurred for the project, including estimated interest;

(f) A summary of the final cost-effectiveness study conducted under subsection (4) of this section;

(g) The anticipated functional life of the project;

(h) The anticipated decommissioning costs of the project; and

(i) If a special election is requested by the applicant, the reasons for requesting a special election. [1982 c 88 § 1; 1981 2nd ex.s. c 6 § 5 (Initiative Measure No. 394, approved November 3, 1981).]

Effective date—1982 c 88: "This act shall take effect on July 1, 1982." [1982 c 88 § 2.]

80.52.060 Form of ballot propositions. The proposition for each major public energy project listed upon a ballot pursuant to this chapter shall be in the form provided in this section.

(1) If the funds are intended to finance the planning or construction of all or a portion of the project, the proposition shall read substantially as follows:

"Shall (name of applicant) be authorized to spend (dollar amount of financing authority

 requested) to construct the (name of the project) (type of project) located at (location) , the anticipated total construction cost of which is (anticipated cost of construction) ?"

(2) If the financing authority is intended to finance the acquisition of all or a portion of the project from another party, the proposition shall read substantially as follows:

"Shall (name of applicant) be authorized to spend (dollar amount of financing authority requested) to acquire the (name of project) (type of project) located at (location) , the anticipated total acquisition cost of which is (anticipated cost of acquisition) ?"

[1981 2nd ex.s. c 6 § 6 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.070 Approval of request for financing authority. A request for financing authority pursuant to this chapter shall be considered approved if it receives the approval of a majority of those voting on the request. [1981 2nd ex.s. c 6 § 7 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.080 Priorities. In planning for future energy expenditures, public agencies shall give priority to projects and resources which are cost-effective. Priority for future bond sales to finance energy expenditures by public agencies shall be given: First, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel-conversion efficiency; and fourth, to all other resources. This section does not apply to projects which are under construction on December 3, 1981. [1981 2nd ex.s. c 6 § 8 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.900 Severability—1981 2nd ex.s. c 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 2nd ex.s. c 6 § 10 (Initiative Measure No. 394, approved November 3, 1981).]

80.52.910 Effective dates—1981 2nd ex.s. c 6. *Section 8 of this act shall take effect immediately. The remainder of this act shall take effect on July 1, 1982. Public agencies intending to submit a request for financing authority under this act are authorized to institute the procedures specified in **section 5(4) of this act prior to the effective date of this act. [1981 2nd ex.s. c 6 § 11 (Initiative Measure No. 394, approved November 3, 1981).]

Reviser's note: *(1) "Section 8 of this act" is codified as RCW 80.52.080.

** (2) "section 5(4) of this act" is codified as RCW 80.52.050(4).

Title 81 TRANSPORTATION

Chapters

- 81.29** Common carriers—Limitations on liability.
81.44 Common carriers—Equipment.
81.53 Railroads—Crossings.
81.80 Motor freight carriers.

Chapter 81.29

COMMON CARRIERS—LIMITATIONS ON LIABILITY

Sections

- 81.29.020** Carrier's liability for loss—Limitation—Exceptions—Tariff schedule—Time for filing claims or instituting suits.

81.29.020 Carrier's liability for loss—Limitation—Exceptions—Tariff schedule—Time for filing claims or instituting suits. Any common carrier receiving property for transportation wholly within the state of Washington from one point in the state of Washington to another point in the state of Washington, shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line or lines such property may pass when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier from the liability imposed; and any such common carrier so receiving property for transportation wholly within the state of Washington, or any common carrier delivering said property so received and transported, shall be liable to the lawful holder of said receipt or bill of lading, or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any such common carrier to which such property may be delivered, or over whose line or lines such property may pass, when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery, or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, or regulation, or in any tariff filed with the commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: *Provided, however,* That the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply: First, to baggage carried on passenger trains, boats, motor vehicles, or aircraft, or trains, boats, motor vehicles, or aircraft carrying passengers; second, to property, except ordinary livestock received for transportation concerning which

the carrier shall have been or shall be expressly authorized or required by order of the commission, to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released; and any tariff schedule which may be filed with the commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon; and the commission is hereby empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. The term "ordinary livestock" shall include all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: *Provided, further,* That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided, further,* That it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for the filing of claims than nine months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: *And provided, further,* That for the purposes of this section and of RCW 81.29.030 the delivering carrier in the case of rail transportation shall be construed to be the carrier performing the linehaul service nearest to the point of destination, and not a carrier performing merely a switching service at the point of destination: *And provided further,* That the liability imposed by this section shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed with the commission. [1982 c 83 § 1; 1980 c 132 § 1; 1961 c 14 § 81.29.020. Prior: 1945 c 203 § 2; 1923 c 149 § 1; Rem. Supp. 1945 § 3673-1. Formerly RCW 81.32-.290 through 81.32.330.]

Effective date—1980 c 132: "This 1980 act shall take effect on July 1, 1980." [1980 c 132 § 4.]

Chapter 81.44

COMMON CARRIERS—EQUIPMENT

Sections

- 81.44.020** Correction of unsafe or defective conditions—Failure to have walkways and handrails as unsafe or defective condition, when.

81.44.020 Correction of unsafe or defective conditions—Failure to have walkways and handrails as unsafe or defective condition, when. If upon investigation the commission shall find that the equipment or appliances in connection therewith, or the apparatus, tracks, bridges or other structures of any common carrier are

defective, and that the operation thereof is dangerous to the employees of such common carrier or to the public, it shall immediately give notice to the superintendent or other officer of such common carrier of the repairs or reconstruction necessary to place the same in a safe condition, and may also prescribe the rate of speed for trains or cars passing over such dangerous or defective track, bridge or other structure until the repairs or reconstruction required are made, and may also prescribe the time within which the same shall be made. Or if, in its opinion, it is needful or proper, it may forbid the running of trains or cars over any defective track, bridge or structure until the same be repaired and placed in a safe condition. Failure of a railroad bridge or trestle to be equipped with walkways and handrails may be identified as an unsafe or defective condition under this section after hearing had by the commission upon complaint or on its own motion. The commission in making such determination shall balance considerations of employee and public safety with the potential for increased danger to the public resulting from adding such walkways or handrails to railway bridges: *Provided*, That a railroad company and its employees shall not be liable for injury to or death of any person occurring on or about any railway bridge or trestle if such person was not a railway employee but was a trespasser or was otherwise not authorized to be in the location where such injury or death occurred.

There shall be no appeal from or action to review any order of the commission made under the provisions of this section if the commission finds that immediate compliance is necessary for the protection of employees or the public. [1982 c 141 § 1; 1977 ex.s. c 46 § 1; 1961 c 14 § 81.44.020. Prior: 1911 c 117 § 65; RRS § 10401.]

Chapter 81.53

RAILROADS—CROSSINGS

Sections

- 81.53.261 Crossing signals, warning devices—Petition, motion—Hearing—Order—Costs, apportionment of—Records not evidence for actions—Appeal.
- 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—Allocation of costs, procedure—Federal funding—Recovery of costs—Report on status of fund.
- 81.53.295 Crossing signals, warning devices, etc.—Federal funds used to pay installation costs—Grade crossing protective fund, state and local authorities to pay remaining installation costs—Railroad to pay maintenance costs.

81.53.261 Crossing signals, warning devices—Petition, motion—Hearing—Order—Costs, apportionment of—Records not evidence for actions—Appeal. Whenever the secretary of transportation or the governing body of any city, town, or county, or any railroad company whose road is crossed by any highway, shall deem that the public safety requires signals or

other warning devices, other than sawbuck signs, at any crossing of a railroad at common grade by any state, city, town, or county highway, road, street, alley, avenue, boulevard, parkway, or other public place actually open and in use or to be opened and used for travel by the public, he or it shall file with the utilities and transportation commission a petition in writing, alleging that the public safety requires the installation of specified signals or other warning devices at such crossing or specified changes in the method and manner of existing crossing warning devices. Upon receiving such petition, the commission shall promptly set the matter for hearing, giving at least twenty days notice to the railroad company or companies and the county or municipality affected thereby, or the secretary of transportation in the case of a state highway, of the time and place of such hearing. At the time and place fixed in the notice, all persons and parties interested shall be entitled to be heard and introduce evidence, which shall be reduced to writing and filed by the commission. If the commission shall determine from the evidence that public safety does not require the installation of the signal, other warning device or change in the existing warning device specified in the petition, it shall make determinations to that effect and enter an order denying said petition in toto. If the commission shall determine from the evidence that public safety requires the installation of such signals or other warning devices at such crossing or such change in the existing warning devices at said crossing, it shall make determinations to that effect and enter an order directing the installation of such signals or other warning devices or directing that such changes shall be made in existing warning devices. The commission shall also at said hearing apportion the entire cost of installation and maintenance of such signals or other warning devices, other than sawbuck signs, as provided in RCW 81.53-.271: *Provided*, That upon agreement by all parties to waive hearing, the commission shall forthwith enter its order.

No railroad shall be required to install any such signal or other warning device until the public body involved has either paid or executed its promise to pay to the railroad its portion of the estimated cost thereof.

Nothing in this section shall be deemed to foreclose the right of the interested parties to enter into an agreement, franchise, or permit arrangement providing for the installation of signals or other warning devices at any such crossing or for the apportionment of the cost of installation and maintenance thereof, or compliance with an existing agreement, franchise, or permit arrangement providing for the same.

The hearing and determinations authorized by this section may be instituted by the commission on its own motion, and the proceedings, hearing, and consequences thereof shall be the same as for the hearing and determination of any petition authorized by this section.

No part of the record, or a copy thereof, of the hearing and determination provided for in this section and no finding, conclusion, or order made pursuant thereto shall be used as evidence in any trial, civil or criminal, arising out of an accident at or in the vicinity of any crossing

prior to installation of signals or other warning devices pursuant to an order of the commission as a result of any such investigation.

Any order entered by the utilities and transportation commission under this section shall be subject to review, supersedeas and appeal as provided in RCW 81.04.170 through 81.04.190, respectively.

Nothing in this section shall be deemed to relieve any railroad from liability on account of failure to provide adequate protective devices at any such crossing. [1982 c 94 § 1; 1969 c 134 § 1.]

Application of 1982 c 94: "The provisions of this act shall not apply to those petitions acted upon by the commission prior to July 10, 1982." [1982 c 94 § 5.]

Reviser's note: The term "this act" refers to the amendment by 1982 c 94 of RCW 81.53.261, 81.53.271, 81.53.281, and 81.53.295.

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 related work, and the approximate annual cost of maintenance. If the commission directs the installation of a grade crossing protective device, and a federal-aid funding program is available to participate in the costs of such installation, 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. [1982 c 94 § 2; 1975 1st ex.s. c 189 § 1; 1973 1st ex.s. c 77 § 1; 1969 c 134 § 2.]

Application of 1982 c 94: See note following RCW 81.53.261.

81.53.281 Crossing signals, warning devices—Grade crossing protective fund—Created—Transfer of funds—Allocation of costs, procedure—Federal funding—Recovery of costs—Report on status of fund. There is hereby created in the state treasury a "grade crossing protective fund," to which shall be transferred all moneys appropriated for the purpose of carrying out the provisions of RCW 81.53.261, 81.53.271, 81.53.281, 81.53.291, and 81.53.295. At the time the commission makes each allocation of cost to said grade crossing protective fund, it shall certify that such cost shall be payable out of said fund. When federal-aid highway funds are not involved, the railroad shall, upon completion of the installation of any such signal or other protective device and related work, present its claim for reimbursement for the cost of installation and related work from said fund of the amount allocated thereto by the commission. The annual cost of maintenance shall be presented and paid in a like manner. When federal-aid highway funds are involved, the department of transportation shall, upon entry of an order by the commission requiring the installation or upgrading of a grade crossing protective device, submit to the commission an estimate for the cost of the proposed installation and related work. Upon receipt of the estimate the commission shall pay to the department of transportation the percentage of the estimate specified in RCW 81.53.295, as now or hereafter amended, to be used as the grade crossing protective fund portion of the cost of the installation and related work. The commission is hereby authorized to recover administrative costs from said fund in an amount not to exceed three percent of the direct appropriation provided for any biennium, and in the event administrative costs exceed three percent of the appropriation, the excess shall be chargeable to regulatory fees paid by railroads pursuant to RCW 81.24.010.

Within ninety days of the end of each fiscal year, the commission shall report to the legislative transportation committee, and the senate and house committees on transportation, the status of the grade crossing protective fund, including revenue sources, fund balances, and expenditures. [1982 c 94 § 3; 1975 1st ex.s. c 189 § 2; 1973 c 115 § 4; 1969 c 134 § 3.]

Application of 1982 c 94: See note following RCW 81.53.261.

81.53.295 Crossing signals, warning devices, etc.—Federal funds used to pay installation costs—Grade crossing protective fund, state and local authorities to pay remaining installation costs—Railroad to pay

maintenance costs. Whenever federal-aid highway funds are available and are used to pay a portion of the cost of installing a grade crossing protective device, and related work, at a railroad crossing of any state highway, city or town street, or county road at the then prevailing federal-aid matching rate, the grade crossing protective fund shall pay ten percent of the remaining cost of such installation and related work. The state or local authority having jurisdiction of such highway, street, or road shall pay the balance of the remaining cost of such installation and related work. The railroad whose road is crossed by the highway, street, or road shall thereafter pay the entire cost of maintaining the device. [1982 c 94 § 4; 1975 1st ex.s. c 189 § 3.]

Application of 1982 c 94: See note following RCW 81.53.261.

**Chapter 81.80
MOTOR FREIGHT CARRIERS**

Sections

81.80.010	Definitions.
81.80.400	Commercial zones and terminal areas—Common carriers doing business within zones prior to designation of zone—Persons seeking to serve as common carriers after designation.
81.80.410	Commercial zones and terminal areas—Common carriers having general freight authority prior to designation.
81.80.420	Commercial zones and terminal areas—Expansion by commission.

Taxation of motor carriers of freight for hire—Allocation of gross receipts: RCW 35.21.840.

81.80.010 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Person" means and includes an individual, firm, copartnership, corporation, company, or association or their lessees, trustees, or receivers.

(2) "Motor vehicle" means any truck, trailer, semi-trailer, tractor, dump truck which uses a hydraulic or mechanical device to dump or discharge its load, or any self-propelled or motor-driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail, and express transported on the vehicles of auto transportation companies carrying passengers.

(3) "Public highway" means every street, road, or highway in this state.

(4) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies.

(5) "Contract carrier" includes all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined in paragraph (4) and paragraph (6), and further includes any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(6) A "private carrier" is a person who transports by his own motor vehicle, with or without compensation

therefor, property which is owned or is being bought or sold by such person, or property of which such person is the seller, purchaser, lessee, or bailee where such transportation is incidental to and in furtherance of some other primary business conducted by such person in good faith.

(7) "Motor carrier" means and includes "common carrier," "contract carrier," "private carrier," and "exempt carrier" as herein defined.

(8) "Exempt carrier" means any person operating a vehicle exempted from certain provisions of this chapter under RCW 81.80.040.

(9) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rail or tracks.

(10) "Commercial zone" means an area encompassing one or more cities or towns and environs adjacent thereto established pursuant to RCW 81.80.400 as now or hereafter amended.

(11) "Terminal area" means an area including one or more cities or towns and environs adjacent thereto established pursuant to RCW 81.80.400 as now or hereafter amended.

(12) "Common carrier" and "contract carrier" include persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders. [1982 c 71 § 1; 1967 c 69 § 1; 1961 c 14 § 81.80.010. Prior: 1937 c 166 § 2; 1935 c 184 § 2; RRS § 6382-2.]

Severability—1982 c 71: "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." [1982 c 71 § 5.]

Severability—1967 c 69: "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." [1967 c 69 § 4.]

81.80.400 Commercial zones and terminal areas—Common carriers doing business within zones prior to designation of zone—Persons seeking to serve as common carriers after designation. There is hereby established for each city and town within the state a commercial zone and terminal area coextensive with the present geographic limits of the commercial zone and terminal area established for each such city and town by the interstate commerce commission pursuant to section 10526(b)(i) (formerly 203(b)(8)) of the Interstate Commerce Act. The commission shall promulgate and publish within ninety days of June 10, 1982, appropriate rules designating the area of the commercial zones and terminal areas established hereby. Any common carrier of general freight who, on the effective date of rules promulgated by the commission hereunder, has general freight authority between any two points in such zone shall have the authority to serve as a common carrier of general freight between any points within the zone at rates prescribed by the commission: *Provided, however,*

That any restrictions, other than territorial restrictions, on his authority to transport general freight shall remain in full force and effect. Any person thereafter seeking to serve as a common carrier of general freight within the zone shall be subject to all the requirements of this chapter and the rules of the commission applicable to persons seeking new or extended permit authority, except as exempted by RCW 81.80.040. [1982 c 71 § 2; 1972 ex.s. c 22 § 1.]

Severability—1982 c 71: See note following RCW 81.80.010.

Severability—1972 ex.s. c 22: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 22 § 3.]

81.80.410 Commercial zones and terminal areas—Common carriers having general freight authority prior to designation. Any common carrier who, on the effective date of rules promulgated by the commission hereunder, has general freight authority between a city or town within a commercial zone or terminal area and a city or town without such zone or area may as part of inter-city service perform pickup and delivery any place in such zone or area at rates prescribed by the commission. [1982 c 71 § 3; 1972 ex.s. c 22 § 2.]

Severability—1982 c 71: See note following RCW 81.80.010.

Severability—1972 ex.s. c 22: See note following RCW 81.80.400.

81.80.420 Commercial zones and terminal areas—Expansion by commission. The commission may, by rule, expand the geographic scope of any commercial zone and/or terminal area upon a finding that public convenience and necessity require such expansion. [1982 c 71 § 4.]

Severability—1982 c 71: See note following RCW 81.80.010.

Title 82 EXCISE TAXES

Chapters

- 82.01 Department of revenue.
- 82.02 General provisions.
- 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.
- 82.27 Tax on food fish and shellfish.
- 82.29A Leasehold excise tax.
- 82.32 General administrative provisions.
- 82.34 Pollution control facilities—Tax exemptions and credits.
- 82.35 Cogeneration facilities—Tax credits.

- 82.36 Motor vehicle fuel tax.
- 82.37 Motor vehicle fuel importer tax act.
- 82.38 Special fuel tax act.
- 82.41 Multistate motor fuel tax agreement.
- 82.42 Aircraft fuel tax.
- 82.44 Motor vehicle excise tax.
- 82.45 Excise tax on real estate sales.
- 82.46 Counties and cities—Excise tax on real estate sales.

Termination of tax preferences: Chapter 43.136 RCW.

Chapter 82.01 DEPARTMENT OF REVENUE

Sections

- 82.01.070 Director—General supervision—Appointment of assistant director, personnel—Personal service contracts for out-of-state auditing services.

Agencies to review licensure requirements and report to governor: RCW 19.02.120.

Director as board of review member, business registration and licensing system: RCW 19.02.040.

Motor vehicle fund, distribution of amount to counties, department to furnish information: RCW 46.68.124.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Termination of tax preferences: Chapter 43.136 RCW.

82.01.070 Director—General supervision—Appointment of assistant director, personnel—Personal service contracts for out-of-state auditing services. The director shall have charge and general supervision of the department of revenue. He shall appoint an assistant director for administration, hereinafter in *this 1967 amendatory act referred to as the assistant director, and subject to the provisions of chapter 41.06 RCW may appoint and employ such clerical, technical and other personnel as may be necessary to carry out the powers and duties of the department. The director may also enter into personal service contracts with out-of-state individuals or business entities for the performance of auditing services outside the state of Washington when normal efforts to recruit classified employees are unsuccessful. The director may agree to pay to the department's employees or contractors who reside out of state such amounts in addition to their ordinary rate of compensation as are necessary to defray the extra costs of facilities, living, and other costs reasonably related to the out-of-state services, subject to legislative appropriation for those purposes. The special allowances shall be in such amounts or at such rates as are approved by the office of financial management. This section does not apply to audit functions performed in states contiguous to the state of Washington. [1982 c 128 § 1; 1967 ex.s. c 26 § 4.]

***Reviser's note:** "this 1967 amendatory act", see note following RCW 82.01.060.

Effective date—1982 c 128: "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 March 1, 1982." [1982 c 128 § 2.]

Chapter 82.02
GENERAL PROVISIONS

Sections	
82.02.020	State preempts certain tax fields—Fees prohibited for the development of land or buildings—Voluntary payments by developers authorized—Limitations—Exceptions.
82.02.030	Additional tax rates.

82.02.020 State preempts certain tax fields—Fees prohibited for the development of land or buildings—Voluntary payments by developers authorized—Limitations—Exceptions. Except only as expressly provided in RCW 67.28.180 and 67.28.190 and the provisions of chapter 82.14 RCW, the state preempts the field of imposing taxes upon retail sales of tangible personal property, the use of tangible personal property, parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. No county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements pursuant to RCW 58.17.110 within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat: *Provided*, That any such voluntary agreement shall be subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest at the rate applied to judgments to the property owners of record at the time of the refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other

governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefited thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges: *Provided*, That no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged: *Provided further*, That these provisions shall not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

This section does not apply to special purpose districts formed and acting pursuant to Titles 54, 56, 57, or 87 RCW, nor is the authority conferred by these titles affected. [1982 1st ex.s. c 49 § 5; 1979 ex.s. c 196 § 3; 1970 ex.s. c 94 § 8; 1967 c 236 § 16; 1961 c 15 § 82.02.020. Prior: (i) 1935 c 180 § 29; RRS § 8370-29. (ii) 1949 c 228 § 28; 1939 c 225 § 22; 1937 c 227 § 24; Rem. Supp. 1949 § 8370-219. Formerly RCW 82.32.370.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

Severability—1970 ex.s. c 94: See RCW 82.14.900.

82.02.030 Additional tax rates. (1) Until and including the day before the change date, the rate of the sales and use taxes under RCW 82.08.020 shall be five and four-tenths percent and the rate of the additional taxes under RCW 48.14.020(3), 54.28.020(2), 54.28.025(2), 66.24.210(2), 66.24.290(2), 82.04.2901, 82.08.150(4), 82.16.020(2), 82.20.010(2), 82.24.020(2), 82.26.020(2), 82.27.020(5), 82.29A.030(2), 82.44.020(5), and 82.45.060(2) shall be four percent.

(2) From and after the change date until and including the thirtieth day of June, 1983, the rate of tax shall be as follows:

(a) The rate of sales and use taxes under RCW 82.08.020 shall be five and four-tenths percent and the rate of the additional taxes under RCW 54.28.020(2), 54.28.025(2), 66.24.210(2), 66.24.290(2), 82.04.2901, 82.16.020(2), 82.20.010(2), 82.26.020(2), 82.27.020(5), 82.29A.030(2), 82.44.020(5), and 82.45.060(2) shall be seven percent: *Provided*, That the additional tax imposed by RCW 82.44.020(5) shall be continued at the rate of three percent for the period July 1 through September 30, 1983;

(b) The rate of the additional taxes under RCW 82.08.150(4) shall be fourteen percent;

(c) The rate of the additional taxes under RCW 82.24.020(2) shall be fifteen percent; and

(d) The rate of the additional taxes under RCW 48.14.020(3) shall be four percent.

(3) "Change date" for the taxes under RCW 48.14.020(3), 54.28.020(2), 54.28.025(2), 82.04.2901, 82.16.020(2), and 82.29A.030(2) means July 1, 1982; for the taxes under RCW 82.08.020, 82.08.150(4), 82.20.010(2), 82.24.020(2), 82.26.020(2), 82.45.060(2), 66.24.210(2), and 66.24.290(2) means August 1, 1982; and for the taxes under RCW 82.27.020(5) and 82.44.020(5) means October 1, 1982. [1982 2nd ex.s. c 14 § 1; 1982 1st ex.s. c 35 § 31.]

Effective date—Applicability—1982 2nd ex.s. c 14: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

The tax rates imposed under this act are effective on the dates designated in this act notwithstanding the date this act becomes law under Article III, section 12 of the state Constitution." [1982 2nd ex.s. c 14 § 3.] "This act" consists of the 1982 2nd ex.s. c 14 amendments to RCW 82.02.030 and 82.44.020.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Chapter 82.03

BOARD OF TAX APPEALS

Sections

- 82.03.130 Appeals to board—Jurisdiction as to types of appeals.
82.03.140 Appeals to board—Election of formal or informal hearing.
82.03.180 Judicial review of board's decisions.

Review of sale price established for certain shorelands: RCW 79.94.210.

82.03.130 Appeals to board—Jurisdiction as to types of appeals. The board shall have jurisdiction to decide the following types of appeals:

- (1) Appeals taken pursuant to RCW 82.03.190.
- (2) Appeals from a county board of equalization pursuant to RCW 84.08.130.
- (3) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, the right to such an appeal being hereby established.
- (4) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapter 84.12 RCW and 84.16 RCW, the right to such appeal being hereby established.

(5) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075: *Provided*, That

(a) Said appeal be filed after review of the ratio under RCW 84.48.075(3) and not later than fifteen days after the date of certification as required by RCW 84.48.075; and

(b) The hearing before the board shall be expeditiously held in accordance with rules prescribed by the board and shall take precedence over all matters of the

same character. [1982 1st ex.s. c 46 § 6; 1977 ex.s. c 284 § 2; 1967 ex.s. c 26 § 42.]

Purpose—Intent—1977 ex.s. c 284: See note following RCW 84.48.075.

82.03.140 Appeals to board—Election of formal or informal hearing. In all appeals over which the board has jurisdiction under RCW 82.03.130, a party taking an appeal may elect either a formal or an informal hearing, such election to be made according to rules of practice and procedure to be promulgated by the board: *Provided, however*, That nothing herein shall be construed to modify the provisions of RCW 82.03.190: *And provided further*, That upon an appeal under RCW 82.03.130(5), the director of revenue 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 chapter 34.04 RCW. In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted. [1982 1st ex.s. c 46 § 8; 1967 ex.s. c 26 § 43.]

82.03.180 Judicial review of board's decisions. Judicial review of a decision of the board of tax appeals shall be de novo in accordance with the provisions of RCW 82.32.180 or 84.68.020 as applicable except when the decision has been rendered pursuant to a formal hearing elected under RCW 82.03.140 or 82.03.190, in which event judicial review may be obtained only pursuant to RCW 34.04.130 and 34.04.140: *Provided, however*, That nothing herein shall be construed to modify the rights of a taxpayer conferred by RCW 82.32.180 and 84.68.020 to sue for tax refunds: *And provided further*, That no review from a decision made pursuant to RCW 82.03.130(1) may be obtained by a taxpayer unless within the petition period provided by RCW 34.04.130 the taxpayer shall have first paid in full the contested tax, together with all penalties and interest thereon, if any. The director of revenue shall have the same right of review from a decision made pursuant to RCW 82.03.130(1) as does a taxpayer; and the director of revenue and all parties to an appeal under RCW 82.03.130(5) shall have the right of review from a decision made pursuant to RCW 82.03.130(5). [1982 1st ex.s. c 46 § 9; 1967 ex.s. c 26 § 47.]

Chapter 82.04

BUSINESS AND OCCUPATION TAX

Sections

- 82.04.120 "To manufacture".
82.04.260 Tax on buyer and wholesaler of wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye, and barley—
Flour and oil manufacturers—Seafood products manufacturers—Fruit and vegetable processors—
Research and development organizations—Perishable meat products processors and wholesalers—
Nuclear fuel assemblies—Travel agents—Certain international activities—Stevedoring and associated activities—Low-level waste disposers.

82.04.2901	Temporary additional tax imposed.
82.04.315	Exemptions—International banking facilities.
82.04.442	Credit for property taxes paid on business inventories—Percentage amounts allowable.
82.04.443	Credit for property taxes paid on business inventories—Definitions.

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.

"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. [1982 2nd ex.s. c 9 § 2; 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 date—1982 2nd ex.s. c 9: See note following RCW 82.16.010.

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

82.04.260 Tax on buyer and wholesaler of wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye, and barley—Flour and oil manufacturers—Seafood products manufacturers—Fruit and vegetable processors—Research and development organizations—Perishable meat products processors and wholesalers—Nuclear fuel assemblies—Travel agents—Certain international activities—Stevedoring and associated activities—Low-level waste disposers. (1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, soybeans into soybean oil, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour or oil manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to

such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

(6) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

(7) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of thirty-three one-hundredths of one percent.

(8) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

(9) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

(10) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent.

(11) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of thirty-three one-hundredths of one percent.

(12) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of thirty-three one hundredths of one percent. Persons subject to taxation under

this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(13) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.21F RCW, multiplied by the rate of thirty percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460. [1982 2nd ex.s. c 13 § 1; 1982 c 10 § 16. Prior: 1981 c 178 § 1; 1981 c 172 § 3; 1979 ex.s. c 196 § 2; 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.]

Severability—1982 2nd ex.s. c 13: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 2nd ex.s. c 13 § 2.]

Effective date—1982 2nd ex.s. c 13: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect August 1, 1982." [1982 2nd ex.s. c 13 § 3.] "This act" consists of the 1982 2nd ex.s. c 13 amendment to RCW 82.04.260.

Severability—1982 c 10: See note following RCW 6.12.100.

Effective dates—1981 c 172: See note following RCW 82.04.240.

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

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.

82.04.2901 Temporary additional tax imposed. From and after the first day of April, 1982, until and including the thirtieth day of June, 1983, there is levied and shall be collected from every person for the act or privilege of engaging in business activities, as a part of the tax imposed by the provisions of RCW 82.04.220 through 82.04.290, inclusive, an additional tax equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under the provisions of RCW 82.04.220 through 82.04.290, inclusive. To facilitate collection of this additional tax, the department of revenue is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the amount to the nearest one-thousandth of one percent of the additional tax hereby imposed, adjusting ten-thousandths equal to or greater than five ten-thousandths to the greater thousandth. [1982 1st ex.s. c 35 § 2; 1977 ex.s. c 324 § 1; 1975-'76 2nd ex.s. c 130 § 3.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective date—1975-'76 2nd ex.s. c 130: See note following RCW 82.08.020.

82.04.315 Exemptions—International banking facilities. This chapter shall not apply to the gross receipts of an international banking facility.

As used in this section, an "international banking facility" means a facility represented by a set of asset and liability accounts segregated on the books and records of a commercial bank, the principal office of which is located in this state, and which is incorporated and doing business under the laws of the United States or of this state, a United States branch or agency of a foreign bank, an Edge corporation organized under Section 25(a) of the Federal Reserve Act, 12 United States Code 611-631, or an Agreement corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code 601-604(a), that includes only international banking facility time deposits (as defined in subsection (a)(2) of Section 204.8 of Regulation D (12 CFR Part 204), as promulgated by the Board of Governors of the Federal Reserve System), and international banking facility extensions of credit (as defined in subsection (a)(3) of Section 204.8 of Regulation D). [1982 c 95 § 7.]

Effective date—1982 c 95: See note following RCW 30.42.070.

82.04.442 Credit for property taxes paid on business inventories—Percentage amounts allowable. (1) Except as provided in subsection (2) of this section, for each of the calendar years 1974 through 1983, a percentage as set forth below, of any personal property taxes paid before delinquency after May 10, 1974 by any taxpayer upon business inventories during the same

calendar year or paid after delinquency under extenuating circumstances if approved by the department of revenue shall be allowed as a credit against the total of any taxes imposed on such taxpayer or its successor by chapter 82.04 RCW (business and occupation tax), as follows:

Inventory taxes paid in	
1974	ten percent
Inventory taxes paid in	
1975	twenty percent
Inventory taxes paid in	
1976	thirty percent
Inventory taxes paid in	
1977	forty percent
Inventory taxes paid in	
1978	fifty percent
Inventory taxes paid in	
1979	sixty percent
Inventory taxes paid in	
1980	seventy percent
Inventory taxes paid in	
1981	eighty percent
Inventory taxes paid in	
1982	ninety percent
Inventory taxes paid in	
1983	one hundred percent

(2) During calendar year 1983, credits against taxes due under chapter 82.04 RCW shall not be allowed under this section before August 10, 1983. Credits which would otherwise be allowable during 1983 under this section shall be allowed against taxes due prior to August 10, 1984 under chapter 82.04 RCW.

(3) If by reason of any change in law, the taxes imposed under this chapter are no longer imposed upon a taxpayer who would otherwise be entitled to all or part of the credit allowed under subsection (1) of this section, such taxpayer may claim the credit allowed by this section against obligations for any taxes payable directly to the department of revenue, except those taxes imposed under chapter 82.14 RCW, during the period July 1, 1983, through June 30, 1984. The department of revenue shall adopt such rules as may be necessary for the prompt allowance of such credits and the efficient administration of this section. [1982 2nd ex.s. c 12 § 1; 1979 ex.s. c 196 § 8; 1974 ex.s. c 169 § 2.]

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

Legislative intent—Review—Reports: "This 1974 act is intended to stimulate the economy of the state, and thereby to increase the revenues of the state and its local taxing districts. The department of revenue shall review the impact of this 1974 act upon the economy and revenues of the state and its local taxing districts, and shall report thereon biennially to the legislature. Recommendations for additional legislation shall be included in such reports if such legislation is needed to assure that the economic stimulus provided by this 1974 act is balanced by increased revenues." [1974 ex.s. c 169 § 1.]

Severability—1974 ex.s. c 169: "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." [1974 ex.s. c 169 § 10.]

Effective date—1974 ex.s. c 169: "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 May 10, 1974." [1974 ex.s. c 169 § 11.]

The 1974 ex.s. c 169 annotations apply to RCW 82.04.442–82.04.445, 84.36.470, 84.40.400 and 84.40.405.

Powers of department of revenue to promulgate rules and prescribe procedures to carry out this section: RCW 84.40.405.

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 not under lease or rental, acquired or produced solely for the purpose of sale or lease, or for the purpose of consuming such property in producing for sale or lease 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 if such property was leased or rented at any time during the calendar year immediately preceding the year of assessment and was not thereafter remanufactured, nor shall it include property held within the normal course of business for lease or rental for periods of less than thirty days. It shall include inventories of finished goods and work in process. For purposes of this section, "remanufacturing" shall mean restoration of property to essentially original condition, but shall not mean normal maintenance or repairs.

"Successor" shall have the meaning given to it in RCW 82.04.180. [1982 c 174 § 1; 1975 1st ex.s. c 291 § 8; 1974 ex.s. c 169 § 4.]

Effective date—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

Chapter 82.08 RETAIL SALES TAX

Sections	
82.08.020	Retail sales tax imposed.
82.08.0273	Exemptions—Sales to nonresidents of tangible personal property for use outside the state—Permit—Fees—Penalties.
82.08.0284	Repealed.
82.08.0292	Exemptions—Sales of food or food products purchased with food stamps or coupons or sold to food banks—Definitions. (Expires July 1, 1983.)
82.08.0293	Exemptions—Sales of food products for human consumption. (Effective July 1, 1983.)
82.08.037	Credits and refunds—Debts deductible as worthless. (Effective January 1, 1983.)
82.08.100	Tax may be paid on cash receipts basis if books are so kept—Exemption for debts deductible as worthless. (Effective January 1, 1983.)
82.08.150	Tax on certain sales of intoxicating liquors—Temporary additional tax—Collection.
82.08.160	Remittance of tax—Liquor excise tax fund created.

82.08.020 Retail sales tax imposed. (1) There is levied and there shall be collected a tax on each retail sale in this state equal to four and one-half percent of the selling price: *Provided*, That from and after the first day of December, 1981, until and including the thirtieth day of April, 1982, such tax shall be levied and collected in

an amount equal to five and five-tenths percent of the selling price: *Provided further*, That from and after the first day of May, 1982, until and including the thirtieth day of June, 1983, such tax shall be levied and collected in an amount equal to the rate specified in RCW 82.02.030 multiplied by the selling price.

(2) The tax imposed under this chapter shall apply to successive retail sales of the same property.

(3) The rate provided in this section applies to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020. [1982 1st ex.s. c 35 § 1; 1981 2nd ex.s. c 8 § 1; 1977 ex.s. c 324 § 2; 1975-'76 2nd ex.s. c 130 § 1; 1971 ex.s. c 281 § 9; 1969 ex.s. c 262 § 31; 1967 ex.s. c 149 § 19; 1965 ex.s. c 173 § 13; 1961 c 293 § 6; 1961 c 15 § 82.08.020. Prior: 1959 ex.s. c 3 § 5; 1955 ex.s. c 10 § 2; 1949 c 228 § 4; 1943 c 156 § 5; 1941 c 76 § 2; 1939 c 225 § 10; 1935 c 180 § 16; Rem. Supp. 1949 § 8370-16.]

Severability—1982 1st ex.s. c 35: "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." [1982 1st ex.s. c 35 § 47.]

Effective dates—**Expiration date**—1982 1st ex.s. c 35: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except that sections 28, 29, and 30 of this act shall take effect on May 1, 1982, sections 33 and 34 of this act shall take effect on July 1, 1983, and sections 35 through 38 of this act shall take effect on January 1, 1983.

Sections 28 and 29 of this act shall expire on July 1, 1983. The additional taxes imposed under this act shall take effect on the dates designated in this act notwithstanding the date this act becomes law under Article III, section 12 of the state Constitution." [1982 1st ex.s. c 35 § 48.]

Reviser's note: (1) "Sections 28 and 29 of this act" are codified as RCW 82.08.0292 and 82.12.0292, respectively.

(2) "Section 30 of this act" consists of the repeal of RCW 82.08.0284 and 82.12.0278.

(3) "Sections 33 and 34 of this act" are codified as RCW 82.08.0293 and 82.12.0293, respectively.

(4) "Sections 35 and 36 of this act" are codified as RCW 82.08.037 and 82.12.037, respectively.

(5) "Sections 37 and 38 of this act" are the 1982 1st ex.s. c 35 amendments to RCW 82.08.100 and 82.12.070, respectively.

(6) "This act" consists of the 1982 1st ex.s. c 35 amendments to RCW 82.08.020, 82.04.2901, 82.08.150, 82.08.160, 82.16.020, 82.16.030, 82.20.010, 82.24.020, 82.26.020, 82.27.020, 82.29A.030, 82.44.110, 82.44.150, 82.45.060, 48.14.020, 41.16.050, 41.24.030, 54.28.020, 54.28.025, 54.28.040, 54.28.050, 54.28.055, 66.24.210, 66.24.290, 82.44.020, 82.32.045, 82.08.100, and 82.12.070; the enactment of 82.08.0292, 82.12.0292, 82.02.030, 82.08.0293, 82.12.0293, 82.08.037, 82.12.037, 43.136.020, 43.136.020, 43.136.030, 43.136.040, 43.136.050, 43.136.060, 43.136.070, and a temporary section (uncodified); and the repeal of RCW 82.08.0284 and 82.12.0278.

(7) The effective date of all sections of "this act" not specifically mentioned is April 19, 1982.

Effective date—1975-'76 2nd ex.s. c 130: "This 1976 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: *Provided*, That the provisions of this 1976 amendatory act shall be null and void in the event chapter ... (Substitute Senate Bill No. 2778), Laws of 1975-'76 2nd ex. sess. is approved and becomes law." [1975-'76 2nd ex.s. c 130 § 4.]

Reviser's note: (1) The foregoing annotation applies to the amendments to RCW 82.08.020 and 82.12.020 and to the enactment of RCW 82.04.2901 by 1975-'76 2nd ex.s. c 130.

(2) "Substitute Senate Bill No. 2778" referred to above failed to become law.

82.08.0273 Exemptions—Sales to nonresidents of tangible personal property for use outside the state—

Permit—Fees—Penalties. The tax levied by RCW 82.08.020 shall not apply to 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 section must display a non-resident 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 five dollars. 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 one dollar 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 section 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. [1982 1st ex.s. c 5 § 1; 1980 c 37 § 39. Formerly RCW 82.08.030(21).]

Study—1982 1st ex.s. c 5: "The department of revenue shall conduct a study of the tax gain resulting from nonresident permits as provided for in RCW 82.08.0273. This study shall be conducted in conjunction with the study authorized by section 26, chapter 340, Laws of 1981." [1982 1st ex.s. c 5 § 2.]

Intent—1980 c 37: See note following RCW 82.04.4281.

82.08.0284 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

82.08.0292 Exemptions—Sales of food or food products purchased with food stamps or coupons or sold

to food banks—Definitions. (Expires July 1, 1983.)

(1) The tax levied by RCW 82.08.020 shall not apply to sales of food or food products:

- (a) Purchased with food stamps or food coupons; or
- (b) Sold to food banks.

(2) As used in this section: (a) "Food bank" means a nonprofit organization which:

(i) Is exempt from federal income taxes under section 501(c) of the internal revenue code or is operated by an organization exempt from federal income taxes under section 501(c) of the internal revenue code;

(ii) Uses or distributes food and food products exempt under this section and RCW 82.12.0292 and food coupons solely for the feeding of the poor and infirm;

(iii) Does not offer for sale, sell, transfer, barter, or make any charge for food and food products exempt under this section or RCW 82.12.0292 or food coupons; and

(iv) Provides access to its food and meal programs without regard to race, creed, color, national origin, sex, or handicap.

(b) "Food coupon" means a coupon issued by a food bank which entitles the recipient to obtain food or food products from a vendor without making any other payment. [1982 2nd ex.s. c 3 § 1; 1982 1st ex.s. c 35 § 28.]

Effective date—Applicability—1982 2nd ex.s. c 3: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. This act applies to taxable activities occurring on or after May 1, 1982." [1982 2nd ex.s. c 3 § 3.] "This act" consists of the 1982 2nd ex.s. c 3 amendments to RCW 82.08.0292 and 82.12.0292.

Severability—Effective dates—Expiration date—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.08.0293 Exemptions—Sales of food products for human consumption. (Effective July 1, 1983.) (1) The tax levied by RCW 82.08.020 shall not apply to sales of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this subsection shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes,

or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals under a state administered nutrition program for the aged as provided for in the Older American[s] Act (P.L. 95-478 Title III) and RCW 74.38.040(6), or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

(2) Subsection (1) of this section notwithstanding, the retail sale of food products is subject to sales tax under RCW 82.08.020 if the food products are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

This subsection does not apply to hot prepared food products, other than food products which are heated after they have been dispensed from the vending machine.

For tax collected under this subsection, the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived. [1982 1st ex.s. c 35 § 33.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.08.037 Credits and refunds—Debts deductible as worthless. (Effective January 1, 1983.) A seller is entitled to a credit or refund for sales taxes previously paid on debts which are deductible as worthless for federal income tax purposes. [1982 1st ex.s. c 35 § 35.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.08.100 Tax may be paid on cash receipts basis if books are so kept—Exemption for debts deductible as worthless. (Effective January 1, 1983.) The department of revenue, by general regulation, shall 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. A taxpayer filing returns on a cash receipts basis is not required to pay such tax on debts which are deductible as worthless for federal income tax purposes. [1982 1st ex.s. c 35 § 37; 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.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

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

82.08.150 Tax on certain sales of intoxicating liquors—Temporary additional tax—Collection. (1) There is levied and shall be collected a tax upon each retail sale of spirits, or strong beer in the original package at the rate of fifteen percent of the selling price. The tax imposed in this subsection shall apply to all such sales including sales by the Washington state liquor stores and agencies, but excluding sales to class H licensees.

(2) There is levied and shall be collected a tax upon each sale of spirits, or strong beer in the original package at the rate of ten percent of the selling price on sales by Washington state liquor stores and agencies to class H licensees.

(3) There is levied and shall be collected an additional tax upon each retail sale of spirits in the original package at the rate of one dollar and seventy-two cents per liter. The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to class H licensees.

(4) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) The tax imposed in RCW 82.08.020, as now or hereafter amended, shall not apply to sales of spirits or strong beer in the original package.

(6) The taxes imposed in this section shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller shall be stated separately from the selling price and for purposes of determining the tax due from the buyer to the seller, it shall be conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section.

(7) As used in this section, the terms, "spirits," "strong beer," and "package" shall have the meaning ascribed to them in chapter 66.04 RCW. [1982 1st ex.s. c 35 § 3; 1981 1st ex.s. c 5 § 25; 1973 1st ex.s. c 204 § 1; 1971 ex.s. c 299 § 9; 1969 ex.s. c 21 § 11; 1965 ex.s. c 173 § 16; 1965 c 42 § 1; 1961 ex.s. c 24 § 2; 1961 c 15 § 82.08.150. Prior: 1959 ex.s. c 5 § 9; 1957 c 279 § 4; 1955 c 396 § 1; 1953 c 91 § 5; 1951 2nd ex.s. c 28 § 5.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Effective date—1973 1st ex.s. c 204: "This 1973 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 the first day of July, 1973." [1973 1st ex.s. c 204 § 4.] This applies to the amendments to RCW 66.24.210 and 82.08.150 by 1973 1st ex.s. c 204.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

82.08.160 Remittance of tax—Liquor excise tax fund created. On or before the twenty-fifth day of each month, all taxes collected under RCW 82.08.150 during

the preceding month shall be remitted to the state department of revenue, to be deposited with the state treasurer. Upon receipt of such moneys the state treasurer shall credit sixty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) and one hundred percent of the sums collected and remitted under RCW 82.08.150 (3) and (4) to the state general fund and thirty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) to a fund which is hereby created to be known as the "liquor excise tax fund." [1982 1st ex.s. c 35 § 4; 1981 1st ex.s. c 5 § 26; 1969 ex.s. c 21 § 12; 1961 c 15 § 82.08.160. Prior: 1955 c 396 § 2.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Effective date—1969 ex.s. c 21: See note following RCW 66.04.010.

Chapter 82.12 USE TAX

Sections

82.12.020	Use tax imposed.
82.12.0278	Repealed.
82.12.0292	Exemptions—Use of food or food products purchased with food stamps or coupons, by food banks, or by persons receiving food or food products from food banks—Definitions. (Expires July 1, 1983.)
82.12.0293	Exemptions—Use of food products for human consumption. (Effective July 1, 1983.)
82.12.037	Credits and refunds—Debts deductible as worthless. (Effective January 1, 1983.)
82.12.070	Tax may be paid on cash receipts basis if books are so kept—Exemption for debts deductible as worthless. (Effective January 1, 1983.)

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 RCW 82.12.0252, 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 in effect for the retail sales tax under RCW 82.08.020, as now or hereafter amended. [1981 2nd ex.s. c 8 § 2; 1980 c 37 § 79; 1977 ex.s. c 324 § 3; 1975-'76 2nd ex.s. c 130 § 2; 1975-'76 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.]

Intent—1980 c 37: See note following RCW 82.04.4281.

Effective date—1975-'76 2nd ex.s. c 130: See note following RCW 82.08.020.

Application of 1975-'76 amendment to preexisting contracts—1975-'76 2nd ex.s. c 1: See note following RCW 82.12.010.

Severability—1975-'76 2nd ex.s. c 1: See note following RCW 82.12.010.

82.12.0278 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

82.12.0292 Exemptions—Use of food or food products purchased with food stamps or coupons, by food banks, or by persons receiving food or food products from food banks—Definitions. (Expires July 1, 1983.) (1) The provisions of this chapter shall not apply in respect to the use of food or food products:

- (a) Purchased with food stamps or food coupons;
- (b) By a food bank; or
- (c) By persons receiving the food or food products from a food bank.

(2) As used in this section, "food bank" and "food coupon" have the meanings given in RCW 82.08.0292. [1982 2nd ex.s. c 3 § 2; 1982 1st ex.s. c 35 § 29.]

Effective date—Applicability—1982 2nd ex.s. c 3: See note following RCW 82.08.0292.

Severability—Effective dates—Expiration date—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.12.0293 Exemptions—Use of food products for human consumption. (Effective July 1, 1983.) The provisions of this chapter shall not apply in respect to the use of food products for human consumption.

"Food products" include cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products.

"Food products" include milk and milk products, milk shakes, malted milks, and any other similar type beverages which are composed at least in part of milk or a milk product and which require the use of milk or a milk product in their preparation.

"Food products" include all fruit juices, vegetable juices, and other beverages except bottled water, spirituous, malt or vinous liquors or carbonated beverages, whether liquid or frozen.

"Food products" do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

The exemption of "food products" provided for in this paragraph shall not apply: (a) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others, except for food products furnished as meals under a state administered nutrition program for the aged as provided for in the Older American[s] Act (P.L. 95-478 Title III) and RCW 74.38.040(6), or (b) when the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer, or (c) when the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments. [1982 1st ex.s. c 35 § 34.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.12.037 Credits and refunds—Debts deductible as worthless. (Effective January 1, 1983.) A seller is entitled to a credit or refund for use taxes previously paid on debts which are deductible as worthless for federal income tax purposes. [1982 1st ex.s. c 35 § 36.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.12.070 Tax may be paid on cash receipts basis if books are so kept—Exemption for debts deductible as worthless. (Effective January 1, 1983.) The department of revenue, by general regulation, shall 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. A taxpayer filing returns on a cash receipts basis is not required to pay such tax on debts which are deductible as worthless for federal income tax purposes. [1982 1st ex.s. c 35 § 38; 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.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

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	
82.14.020	Definitions—Where retail sale occurs.
82.14.030	Sales and use taxes authorized—Additional taxes authorized—Maximum rates.
82.14.035	Imposition of additional taxes—Special initiative procedure required.
82.14.040	County ordinance to contain credit provision.
82.14.050	Administration and collection—Local sales and use tax account.
82.14.060	Distributions to counties, cities and metropolitan municipal corporations—Imposition at excess rates, effect.
82.14.080	Deposit of tax prior to due date—Credit against future tax or assessment—When fund designation permitted—Use of tax revenues received in connection with large construction projects.
82.14.090	Payment of tax prior to taxable event—When permitted—Deposit with treasurer—Credit against future tax—When fund designation permitted.
82.14.200	County sales and use tax equalization account—Created—Allocation procedure.
82.14.210	Municipal sales and use tax equalization account—Created—Allocation procedure.

82.14.020 Definitions—Where retail sale occurs.
For purposes of this chapter:

(1) A retail sale consisting solely of the sale of tangible personal property shall be deemed to have occurred at the retail outlet at or from which delivery is made to the consumer;

(2) A retail sale consisting essentially of the performance of personal business or professional services shall be deemed to have occurred at the place at which such services were primarily performed;

(3) A retail sale consisting of the rental of tangible personal property shall be deemed to have occurred (a) in the case of a rental involving periodic rental payments, at the primary place of use by the lessee during the period covered by each payment, or (b) in all other cases, at the place of first use by the lessee;

(4) A retail sale within the scope of the second paragraph of RCW 82.04.050, and a retail sale of taxable personal property to be installed by the seller shall be deemed to have occurred at the place where the labor and services involved were primarily performed;

(5) A retail sale consisting of the providing to a consumer of competitive telephone service, as defined in RCW 82.16.010, other than a sale of tangible personal property under subsection (1) of this section or a rental of tangible personal property under subsection (3) of this section, shall be deemed to have occurred at the situs of the primary telephone or other instrument through which the competitive telephone service is rendered;

(6) "City" means a city or town;

(7) The meaning ascribed to words and phrases in chapters 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as applicable, shall have full force and effect with respect to taxes imposed under authority of this chapter;

(8) "Taxable event" shall mean any retail sale, or any use of an article of tangible personal property, upon

which a state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they now exist or may hereafter be amended: *Provided, however*, That the term shall not include a retail sale taxable pursuant to RCW 82.08.150, as now or hereafter amended;

(9) "Treasurer or other legal depository" shall mean the treasurer or legal depository of a county or city. [1982 c 211 § 1; 1981 c 144 § 4; 1970 ex.s. c 94 § 3.]

Intent—Severability—Effective date—1981 c 144: See notes following RCW 82.16.010.

82.14.030 Sales and use taxes authorized—Additional taxes authorized—Maximum rates. (1) The governing body of any county or city while not required by legislative mandate to do so, may, by resolution or ordinance for the purposes authorized by this chapter, fix and impose a sales and use tax in accordance with the terms of this chapter. Such tax 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 the county or city as the case may be. The rate of such tax imposed by a county shall be five-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). The rate of such tax imposed by a city shall not exceed five-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): *Provided, however*, That in the event a county shall impose a sales and use tax under this subsection, the rate of such tax imposed under this subsection by any city therein shall not exceed four hundred and twenty-five one-thousandths of one percent.

(2) Subject to the enactment into law of the 1982 amendment to RCW 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in addition to the tax authorized in subsection (1) of this section, the governing body of any county or city may by resolution or ordinance impose an additional sales and use tax in accordance with the terms of this chapter. Such additional tax shall be collected upon the same taxable events upon which the tax imposed under subsection (1) of this section is levied. The rate of such additional tax imposed by a county shall be up to five-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). The rate of such additional tax imposed by a city shall be up to five-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): *Provided however*, That in the event a county shall impose a sales and use tax under this subsection at a rate equal to or greater than the rate imposed under this subsection by a city within the county, the county shall receive fifteen percent of the city tax: *Provided further*, That in the event that the county shall impose a sales and use tax under this subsection at a rate which is less than the rate imposed under this subsection by a city within the county, the county shall receive that amount of revenues from the city tax equal to fifteen percent of the rate of tax imposed by the county under this subsection. The authority to impose a tax under this subsection

is intended in part to compensate local government for any losses from the phase-out of the property tax on business inventories. [1982 1st ex.s. c 49 § 17; 1970 ex.s. c 94 § 4.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Imposition of additional tax on sale of real property in lieu of tax under RCW 82.14.030(2): RCW 82.46.010(2).

82.14.035 Imposition of additional taxes—Special initiative procedure required. Every county and city imposing a tax under RCW 82.14.030(2) shall provide for a special initiative procedure on an ordinance imposing or altering each tax. Such a special initiative procedure shall subject the ordinance imposing or altering the tax to approval or rejection by the voters. If the voters of the county or city otherwise possess the general power of initiative on county or city matters, this special initiative procedure shall conform to the requirements of that procedure. If the voters of a county or city do not otherwise possess the general power of initiative on county or city matters, this special initiative procedure shall conform to the requirements and procedures for initiative petitions provided for code cities in RCW 35A.11.100. [1982 1st ex.s. c 49 § 19.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.14.040 County ordinance to contain credit provision. (1) Any county ordinance adopted under RCW 82.14.030(1) shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax imposed under RCW 82.14.030(1) for the full amount of any city sales or use tax imposed under RCW 82.14.030(1) upon the same taxable event.

(2) Any county ordinance adopted under RCW 82.14.030(2) shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax imposed under RCW 82.14.030(2) for the full amount of any city sales or use tax imposed under RCW 82.14.030(2) upon the same taxable event up to the additional tax imposed by the county under RCW 82.14.030(2). [1982 1st ex.s. c 49 § 18; 1970 ex.s. c 94 § 5.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.14.050 Administration and collection—Local sales and use tax account. The counties, metropolitan municipal corporations and cities shall contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter which is collected by the department of revenue shall be deposited by the state department of revenue in the local sales and use tax account hereby created

in the general fund. Moneys in the local sales and use tax account may be spent only for distribution to counties, metropolitan municipal corporations, and cities imposing a sales and use tax. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW, as they now exist or may hereafter be amended, shall, insofar as they are applicable to state sales and use taxes, be applicable to taxes imposed pursuant to this chapter. [1981 2nd ex.s. c 4 § 10; 1971 ex.s. c 296 § 3; 1970 ex.s. c 94 § 6.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

82.14.060 Distributions to counties, cities and metropolitan municipal corporations—Imposition at excess rates, effect. Bimonthly the state treasurer shall make distribution from the local sales and use tax account to the counties, metropolitan municipal corporations and cities the amount of tax collected on behalf of each county, metropolitan municipal corporation or city, less the deduction provided for in RCW 82.14.050. The state treasurer shall make the distribution under this section without appropriation.

In the event that any ordinance or resolution imposes a sales and use tax at a rate in excess of the applicable limits contained herein, such ordinance or resolution shall not be considered void in toto, but only with respect to that portion of the rate which is in excess of the applicable limits contained herein. [1981 2nd ex.s. c 4 § 11; 1971 ex.s. c 296 § 4; 1970 ex.s. c 94 § 7.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

82.14.080 Deposit of tax prior to due date—Credit against future tax or assessment—When fund designation permitted—Use of tax revenues received in connection with large construction projects. The taxes provided by this chapter may be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: *Provided*, That the taxpayer may with the concurrence of the legislative authority designate a particular fund of such county or city against which such prepayment of tax or assessment is made. Such prepayment of taxes or assessments shall not be considered to be a debt for the purpose of the limitation of indebtedness imposed by law on a county or city.

By agreement made pursuant to chapter 39.34 RCW, counties or cities may utilize tax revenues received under the authority of this chapter in connection with large construction projects, including energy facilities as defined in RCW 80.50.020, for any purpose within their power or powers, privileges or authority exercised or capable of exercise by such counties or cities including, but not limited to, the purpose of the mitigation of socioeconomic impacts that may be caused by such large construction projects: *Provided*, That the taxable event need

not take place within the jurisdiction where the socio-economic impact occurs if an intergovernmental agreement provides for redistribution. [1982 c 211 § 2.]

82.14.090 Payment of tax prior to taxable event—When permitted—Deposit with treasurer—Credit against future tax—When fund designation permitted. When permitted by resolution or ordinance, any tax authorized by this chapter may be paid prior to the taxable event to which it may be attributable. Such prepayment shall be made by deposit with the treasurer or other legal depository for the benefit of the funds to which they belong. They shall be credited by any county or city against any future tax that may become due from a taxpayer: *Provided*, That the taxpayer with the concurrence of the legislative authority may designate a particular fund of such county or city against which such prepayment of tax is made. Prepayment of taxes under this section shall not relieve any taxpayer from remitting the full amount of any tax imposed under the authority of this chapter upon the occurrence of the taxable event. [1982 c 211 § 3.]

82.14.200 County sales and use tax equalization account—Created—Allocation procedure. There is created in the state general fund a special account to be known as the "county sales and use tax equalization account." Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.150(2). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for the unincorporated area of each county and the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than one hundred fifty thousand dollars from the tax for the previous calendar year, an amount from the county sales and use tax equalization account sufficient, when added to the amount of revenues received the previous calendar year by the county, to equal one hundred fifty thousand dollars.

(3) Subsequent to the distributions under subsection (2) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties as determined by the department of revenue under subsection (1) of this section, an amount from

the county sales and use tax equalization account sufficient, when added to the per capita level of revenues for the unincorporated area received the previous calendar year by the county, to equal seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties determined under subsection (1) of this section, subject to reduction under subsections (5) and (6) of this section. When computing distributions under this section, any distribution under subsection (2) of this section shall be considered revenues received from the tax imposed under RCW 82.14.030(1) for the previous calendar year.

(4) Subsequent to the distributions under subsection (3) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a third distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (3) of this section, subject to the reduction under subsections (5) and (6) of this section. To qualify for the distributions under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) Revenues distributed under this section in any calendar year shall not exceed an amount equal to seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties during the previous calendar year. If distributions under subsection (3) or (4) of this section cannot be made because of this limitation, then distributions under subsection (3) or (4) of this section shall be reduced ratably among the qualifying counties.

(6) If inadequate revenues exist in the county sales and use tax equalization account to make the distributions under subsection (3) or (4) of this section, then the distributions under subsection (3) or (4) of this section shall be reduced ratably among the qualifying counties. At such time during the year as additional funds accrue to the county sales and use tax equalization account, additional distributions shall be made under subsections (3) and (4) of this section to the counties.

(7) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (4) of this section, then the additional revenues shall be credited and transferred to the state general fund. [1982 1st ex.s. c 49 § 21.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.14.210 Municipal sales and use tax equalization account—Created—Allocation procedure. There is created in the state general fund a special account to be known as the "municipal sales and use tax equalization

account." Into this account shall be placed such revenues as are provided under RCW 82.44.150(3)(b). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for each city and the state-wide weighted average per capita level of revenues for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city not imposing the sales and use tax under RCW 82.14.030(2) an amount from the municipal sales and use tax equalization account equal to the amount distributed to the city under RCW 82.44.150(3)(a) multiplied by thirty-five sixty-fifths.

(3) Subsequent to the distributions under subsection (2) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for all cities as determined by the department of revenue under subsection (1) of this section, an amount from the municipal sales and use tax equalization account sufficient, when added to the per capita level of revenues received the previous calendar year by the city, to equal seventy percent of the state-wide weighted average per capita level of revenues for all cities determined under subsection (1) of this section, subject to reduction under subsection (5) of this section.

(4) Subsequent to the distributions under subsection (3) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a third distribution from the municipal sales and use tax equalization account. The distribution to each qualifying city shall be equal to the distribution to the city under subsection (3) of this section, subject to the reduction under subsection (5) of this section. To qualify for the distributions under this subsection, the city must impose the tax under RCW 82.14.030(2) for the entire calendar year. Cities imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) If inadequate revenues exist in the municipal sales and use tax equalization account to make the distributions under subsection (3) or (4) of this section, then the distributions under subsection (3) or (4) of this section shall be reduced ratably among the qualifying cities. At such time during the year as additional funds accrue to the municipal sales and use tax equalization account, additional distributions shall be made under subsections (3) and (4) of this section to the cities.

(6) If the level of revenues in the municipal sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (4) of this section, then the additional revenues shall be apportioned among the several cities within the state ratably on the basis of population as last determined by the office of financial management: *Provided*, That no such distribution shall be made to those cities receiving a distribution under subsection (2) of this section. [1982 1st ex.s. c 49 § 22.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Chapter 82.16 PUBLIC UTILITY TAX

Sections	
82.16.010	Definitions.
82.16.020	Public utility tax imposed—Temporary additional tax imposed.
82.16.030	Taxable under each schedule if within its purview.
82.16.050	Deductions in computing tax.

82.16.010 Definitions. For the purposes of this chapter, unless otherwise required by the context:

(1) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business.

(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business.

(3) "Railroad car business" means the business of renting, leasing or operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.

(4) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.

(5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale.

(6) "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television service.

(7) "Telegraph business" means the business of affording telegraphic communication for hire.

(8) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

(9) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81.68.010 and 81.80.010: *Provided*, That "motor transportation business" shall not mean or include the transportation of logs or other forest products exclusively upon private roads or private highways.

(10) "Urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property.

(11) "Public service business" means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, log patrol, pipe line, warehouse, toll bridge, toll logging road, water transportation and wharf businesses.

(12) "Tugboat business" means the business of operating tugboats, towboats, wharf boats or similar vessels in the towing or pushing of vessels, barges or rafts for hire.

(13) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses: *Provided*, That gross income of a light and power business means those amounts or value accruing to a taxpayer from the last distribution of electrical energy which is a taxable event within this state.

(14) The meaning attributed, in chapter 82.04 RCW, to the term "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provisions of this chapter.

(15) "Competitive telephone service" means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made. [1982 2nd ex.s. c 9 § 1; 1981 c 144 § 2; 1965 ex.s. c 173 § 20; 1961 c 293 § 12; 1961 c 15 § 82.16.010. Prior: 1959 ex.s. c 3 § 15; 1955 c 389 § 28; 1949 c 228 § 10; 1943 c 156 § 10; 1941 c 178 § 12; 1939 c 225 § 20; 1937 c 227 § 11; 1935 c 180 § 37; Rem. Supp. 1949 § 8370-37.]

Effective date—1982 2nd ex.s. c 9: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect August 1, 1982." [1982 2nd ex.s. c 9 § 4.] "This act" consists of the 1982 2nd ex.s. c 9 amendments to RCW 82.04.120, 82.16.010, and 82.16.050.

Intent—1981 c 144: "The legislature recognizes that there have been significant changes in the nature of the telephone business in recent years. Once solely the domain of regulated monopolies, the telephone business has now been opened up to competition with respect to most of its services and equipment. As a result of this competition, the state and local excise tax structure in the state of Washington has become discriminatory when applied to regulated telephone company transactions that are similar in nature to those consummated by nonregulated competitors. Telephone companies are forced to operate at a significant state and local tax disadvantage when compared to these nonregulated competitors.

To remedy this situation, it is the intent of the legislature to place telephone companies and nonregulated competitors of telephone companies on an equal excise tax basis with regard to the providing of similar goods and services. Therefore competitive telephone services shall for excise tax purposes only, unless otherwise provided, be treated as retail sales under the applicable state and local business and occupation and sales and use taxes. This shall not affect any requirement that regulated telephone companies have under Title 80 RCW, unless otherwise provided.

Nothing in this act affects the authority and responsibility of the Washington utilities and transportation commission to set fair, just, reasonable, and sufficient rates for telephone service." [1981 c 144 § 1.]

Severability—1981 c 144: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 144 § 12.]

Effective date—1981 c 144: "This act shall take effect on January 1, 1982." [1981 c 144 § 13.]

The above three annotations apply to the 1981 c 144 amendments to RCW 82.16.010, 82.04.050, 82.14.020, 80.04.270, 35.21.710, and 35A.82.050 and to RCW 35.21.712, 35A.82.055, 35.21.714, and 35A.82.060.

Effective date—1965 ex.s. c 173: See note following RCW 82.04.050.

82.16.020 Public utility tax imposed.—Temporary additional tax imposed. (1) There is levied and there shall be collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax shall be equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Railroad, express, railroad car, water distribution, light and power, telephone and telegraph businesses: Three and six-tenths percent;

(b) Gas distribution business: Three and six-tenths percent;

(c) Urban transportation business: Six-tenths of one percent;

(d) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;

(e) Motor transportation and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent.

(2) From and after the first day of April, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. [1982 2nd ex.s. c 5 § 1; 1982 1st ex.s. c 35 § 5; 1971 ex.s. c 299 § 12; 1967 ex.s. c 149 § 24; 1965 ex.s. c 173 § 21; 1961 c 293 § 13; 1961 c 15 § 82.16.020. Prior: 1959 ex.s. c 3 § 16; 1939 c 225 § 19; 1935 c 180 § 36; RRS § 8370-36.]

Effective date—1982 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 August 1, 1982." [1982 2nd ex.s. c 5 § 2.] "This act" consists of the 1982 2nd ex.s. c 5 amendment to RCW 82.16.020.

Severability—**Effective dates**—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—**Severability**—1971 ex.s. c 299: See notes following RCW 82.04.050.

82.16.030 Taxable under each schedule if within its purview. Every person engaging in businesses which are within the purview of two or more of schedules (a), (b), (c), (d), and (e) of RCW 82.16.020(1), shall be taxable under each schedule applicable to the businesses engaged in. [1982 1st ex.s. c 35 § 6; 1961 c 15 § 82.16.030. Prior: 1935 c 180 § 38; RRS § 8370-38.]

Severability—**Effective dates**—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.16.050 Deductions in computing tax. In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: *Provided*, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, gas distribution or other public service businesses which furnish water, gas or any other commodity, other than electrical energy, in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by

both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations: *Provided*, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(9) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association. [1982 2nd ex.s. c 9 § 3; 1977 ex.s. c 368 § 1; 1967 ex.s. c 149 § 25; 1965 ex.s. c 173 § 22; 1961 c 15 § 82.16.050. Prior: 1959 ex.s. c 3 § 18; 1949 c 228 § 11; 1937 c 227 § 12; 1935 c 180 § 40; Rem. Supp. 1949 § 8370-40.]

Effective date—1982 2nd ex.s. c 9: See note following RCW 82.16.010.

Chapter 82.20

TAX ON CONVEYANCES

Sections

82.20.010 Tax imposed—Temporary additional tax imposed—Conveyances to state and security instruments exempt.

82.20.010 Tax imposed—Temporary additional tax imposed—Conveyances to state and security instruments exempt. (1) There is levied and there shall be collected a tax upon conveyances as follows: On any deed, instrument, or writing (unless deposited in escrow before May 1, 1935), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser, or any other person by his direction, when the consideration or value of the interest or property conveyed, exclusive

of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds one hundred dollars and does not exceed five hundred dollars or fractional part thereof, fifty cents; and for each additional five hundred dollars or fractional part thereof, fifty cents.

(2) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

(3) This section shall not apply to any instrument or writing, given to secure a debt, nor to any conveyance to the state. [1982 1st ex.s. c 35 § 7; 1961 c 15 § 82.20.010. Prior: 1949 c 228 § 12; 1945 c 126 § 1; 1935 c 180 § 53; Rem. Supp. 1949 § 8370-53.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Chapter 82.24 TAX ON CIGARETTES

Sections

82.24.020 Tax imposed—Possession, defined—Temporary additional tax imposed.
82.24.220 Repealed.

82.24.020 Tax imposed—Possession, defined—Temporary additional tax imposed. (1) There is levied and there shall be collected as hereinafter provided, a tax upon the sale, use, consumption, handling, possession or distribution of all cigarettes, in an amount equal to the rate of eight and one-half mills per cigarette. For purposes of this chapter and RCW 28A.47.440, "possession" shall mean both (a) physical possession by the purchaser and, (b) when cigarettes are being transported to or held for the purchaser or his designee by a person other than the purchaser, constructive possession by the purchaser or his designee, which constructive possession shall be deemed to occur at the location of the cigarettes being so transported or held.

(2) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section, RCW 82.24.025, and 28A.47.440. [1982 1st ex.s. c 35 § 8; 1981 c 172 § 6; 1972 ex.s. c 157 § 3; 1971 ex.s. c 299 § 13; 1965 ex.s. c 173 § 23; 1961 ex.s. c 24 § 3; 1961 c 15 § 82.24.020. Prior: 1959 c 270 § 2; 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.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—1981 c 172: See note following RCW 82.04.240.

Severability—1972 ex.s. c 157: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1972 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 157 § 8.] This applies to the 1972 ex.s. amendments to RCW 28A.47.440, 73.32.130, 82.24.020, 82.24.080, and 82.24.130 and to the enactment of RCW 82.24.250 and 82.24.260.

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

Chapter 82.26 TAX ON TOBACCO PRODUCTS

Sections

82.26.020 Tax imposed—Temporary additional tax imposed.

82.26.020 Tax imposed—Temporary additional tax imposed. (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) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. [1982 1st ex.s. c 35 § 9; 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.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

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.

Chapter 82.27 TAX ON FOOD FISH AND SHELLFISH

Sections

82.27.020 Excise tax imposed—Deduction—Measure of tax—Rates—Temporary additional tax imposed.

82.27.020 Excise tax imposed—Deduction—Measure of tax—Rates—Temporary additional tax imposed. (1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the possession of food fish and shellfish for commercial purposes as provided in this chapter. The tax is levied upon and shall be collected from the owner of the food fish or shellfish whose possession constitutes the taxable event. The taxable event is the first possession by an owner after the food fish or shellfish have been landed. Processing and handling of food fish and shellfish by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of food fish and shellfish and liable to this tax may deduct from the price paid to the person from which such food fish or shellfish (except

oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the price paid by the first person in possession of the food fish or shellfish. If the food fish or shellfish are acquired other than by purchase or are purchased under conditions where the purchase price does not represent the value of the food fish or shellfish or these products are transferred outside the state without sale, the measure of the tax shall be determined as nearly as possible according to the selling price of similar products of like quality and character under rules adopted by the department of revenue.

(4) The tax shall be equal to the measure of the tax multiplied by the rates for food fish and shellfish as follows:

- (a) Chinook, coho, and chum salmon: Five percent.
- (b) Pink and sockeye salmon: Three percent.
- (c) Other food fish and shellfish, except oysters: Two percent.
- (d) Oysters: Seven one-hundredths of one percent.

(5) From and after the first day of July, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section. [1982 1st ex.s. c 35 § 10; 1980 c 98 § 2.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

**Chapter 82.29A
LEASEHOLD EXCISE TAX**

Sections	
82.29A.030	Tax imposed—Credit—Temporary additional tax imposed.
82.29A.080	Counties and cities to contract with state for administration and collection—Local leasehold excise tax account.
82.29A.090	Distributions to counties and cities.

82.29A.030 Tax imposed—Credit—Temporary additional tax imposed. (1) There is hereby levied and shall be collected a leasehold excise tax on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest on and after January 1, 1976, at a rate of twelve percent of taxable rent: *Provided*, That after the computation of the tax there shall be allowed credit for any tax collected pursuant to RCW 82.29A.040.

(2) From and after the first day of April, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. [1982 1st ex.s. c 35 § 11; 1975-'76 2nd ex.s. c 61 § 3.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.29A.080 Counties and cities to contract with state for administration and collection—Local leasehold excise tax account. The counties and cities shall contract,

prior to the effective date of an ordinance imposing a leasehold excise tax, with the department of revenue for administration and collection. The department of revenue shall deduct a percentage amount, as provided by such contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by RCW 82.29A.040 which is collected by the department of revenue shall be deposited by the state department of revenue in the local leasehold excise tax account hereby created in the general fund. Moneys in the local leasehold excise tax account may be spent only for distribution to counties and cities imposing a leasehold excise tax. [1981 2nd ex.s. c 4 § 8; 1975-'76 2nd ex.s. c 61 § 8.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

82.29A.090 Distributions to counties and cities. Bi-monthly the state treasurer shall make distribution from the local leasehold excise tax account to the counties and cities the amount of tax collected on behalf of each county or city. The state treasurer shall make the distribution under this section without appropriation. [1981 2nd ex.s. c 4 § 9; 1975-'76 2nd ex.s. c 61 § 9.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

**Chapter 82.32
GENERAL ADMINISTRATIVE PROVISIONS**

Sections	
82.32.030	Registration certificates.
82.32.045	Taxes—When due and payable—Election to remit estimated taxes—Reporting periods—Verified annual returns.

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 a registration certificate upon payment of fifteen dollars. Such 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 additional payment 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 payment. [1982 1st ex.s. c 4 § 1; 1979 ex.s. c 95 § 1; 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.

82.32.045 Taxes—When due and payable—Election to remit estimated taxes—Reporting periods—Verified annual returns. (1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within the number of days specified in the following table after the end of the month in which the taxable activities occur.

For activities occurring in	Days
October, 1981 through March, 1982	25
April, 1982 through March, 1983	20
April, 1983 and thereafter	15

(2) A monthly taxpayer may elect to remit an estimated amount of the tax due for each month on or before the due date set forth in subsection (1) of this section. The estimated amount of tax remitted shall be at least the greater of ninety percent of the tax actually due for the month or one-third of the tax due during the corresponding quarter of the previous year. Each taxpayer filing an estimated return shall file a separate quarterly return on the last day of the month after the end of each calendar quarter. Each quarterly return shall be on forms prescribed by the department, include such information as the department may require to correctly determine tax liability during the quarter, and be accompanied by a remittance of the balance of the tax actually due for the quarter.

(3) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(4) 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. [1982 1st ex.s. c 35 § 27; 1981 c 172 § 7; 1981 c 7 § 1.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—1981 c 172: See note following RCW 82.04.240.

Effective date—1981 c 7: "This act shall take effect October 1, 1981." [1981 c 172 § 9; 1981 c 7 § 5.]

Chapter 82.34

POLLUTION CONTROL FACILITIES—TAX EXEMPTIONS AND CREDITS

Sections	
82.34.010	Definitions.
82.34.020	Application for certificate—Filing—Form—Contents.
82.34.060	Application for final cost determination as to existing or new facility—Filing—Form—Contents—Approval—Determination of costs—Credits against taxes imposed by chapters 82.04, 82.12, 82.16 RCW—Limitations.
82.34.080	Modification or replacement of facility.
82.34.901	Severability—1981 2nd ex.s. c 9.

82.34.010 Definitions. Unless a different meaning is plainly required by the context, the following words as hereinafter used in this chapter shall have the following meanings:

(1) "Facility" shall mean an "air pollution control facility" or a "water pollution control facility" as herein defined: (a) "Air pollution control facility" includes any treatment works, control devices and disposal systems, machinery, equipment, structures, property or any part or accessories thereof, installed or acquired for the primary purpose of reducing, controlling or disposing of industrial waste which if released to the outdoor atmosphere could cause air pollution. "Air pollution control facility" shall not mean any motor vehicle air pollution control devices used to control the emission of air contaminants from any motor vehicle. (b) "Water pollution control facility" includes any treatment works, control device or disposal system; machinery, equipment, structures, property or any accessories thereof installed or acquired for the primary purpose of reducing, controlling or disposing of sewage and industrial waste which if released to a water course could cause water pollution: *Provided*, That the word "facility" shall not be construed to include any control device, machinery, equipment, structure, disposal system or other property installed or constructed: For a municipal corporation other than for coal-fired, steam electric generating plants constructed and operated pursuant to chapter 54.44 RCW for which an application for a certificate was made no later than December 31, 1969, together with any air or water pollution control facility improvement which may be made hereafter to such plants; or for the primary purpose of connecting any commercial establishment with the waste collecting facilities of public or privately owned utilities.

(2) "Industrial waste" shall mean any liquid, gaseous, radioactive or solid waste substance or combinations thereof resulting from any process of industry, manufacture, trade or business, or from the development or recovery of any natural resources.

(3) "Treatment works" or "control device" shall mean any machinery, equipment, structure or property which is installed, constructed or acquired for the primary purpose of controlling air or water pollution and shall include, but shall not be limited to such devices as precipitators, scrubbers, towers, filters, baghouses, incinerators, evaporators, reservoirs, aerators used for the

purpose of treating, stabilizing, incinerating, holding, removing or isolating sewage and industrial wastes.

(4) "Disposal system" shall mean any system containing treatment works or control devices and includes but is not limited to pipelines, outfalls, conduits, pumping stations, force mains, solids handling equipment, instrumentation and monitoring equipment, ducts, fans, vents, hoods and conveyors and all other construction, devices, appurtenances and facilities used for collecting or conducting, sewage and industrial waste to a point of disposal, treatment or isolation except that which is necessary to manufacture of products.

(5) "Certificate" shall mean a pollution control tax exemption and credit certificate for which application has been made not later than December 31, 1969: *Provided*, That with respect solely to a facility required to be installed in an industrial, manufacturing, waste disposal, utility, or other commercial establishment which is in operation or under construction as of July 30, 1967, such application will be deemed timely made if made not later than November 30, 1981, and within one year after the effective date of specific requirements for such facility promulgated by the appropriate control agency.

(6) "Appropriate control agency" shall mean the state water pollution control commission; or the operating local or regional air pollution control agency within whose jurisdiction a facility is or will be located, or the state air pollution control board, where the facility is not or will not be located within the area of an operating local or regional air pollution control agency, or where the state air pollution control board has assumed jurisdiction.

(7) "Department" shall mean the department of revenue. [1981 2nd ex.s. c 9 § 1; 1980 c 175 § 1; 1967 ex.s. c 139 § 1.]

82.34.020 Application for certificate—Filing—

Form—Contents. An application for a certificate shall be filed with the department not later than November 30, 1981, and in such manner and in such form as may be prescribed by the department. The application shall contain estimated or actual costs, plans and specifications of the facility including all materials incorporated or to be incorporated therein and a list describing, and showing the cost, of all equipment acquired or to be acquired by the applicant for the purpose of pollution control, together with the operating procedure for the facility, or a time schedule for the acquisition and installation or attachment of the facility and the proposed operating procedure for such facility. [1981 2nd ex.s. c 9 § 2; 1967 ex.s. c 139 § 2.]

82.34.060 Application for final cost determination as to existing or new facility—Filing—Form—Contents—Approval—Determination of costs—Credits against taxes imposed by chapters 82.04, 82.12, 82.16 RCW—Limitations. (1) On and after July 30, 1967, an application for a determination of the cost of an existing or newly completed pollution control facility may be filed with the department in such manner and in such form as may be prescribed by the department. The

application shall contain the final cost figures for the installation of the facility and reasonable supporting documents and other proof as required by the department. In the event such facility is not already covered by a certificate issued for the purpose of authorizing the tax exemption or credit provided for in this chapter, the department shall seek the approval of the facility from the appropriate control agency. For any application for a certificate or supplement which was filed with the department not later than November 30, 1981, the department shall determine the final cost of the pollution control facility and issue a supplement to the existing certificate or an original certificate stating the cost of the pollution control facility: *Provided*, That the cost of an existing pollution control facility shall be the depreciated value thereof at the time of application filed pursuant to this section.

(2) When the operation of a facility has commenced and a certificate pertaining thereto has been issued, a credit may be claimed against taxes imposed pursuant to chapters 82.04, 82.12 and 82.16 RCW. The amount of such credit shall be two percent of the cost of a facility covered by the certificate for each year the certificate remains in force. Such credits shall be cumulative and shall be subject only to the following limitations:

(a) No credit exceeding fifty percent of the taxes payable under chapters 82.04, 82.12 and 82.16 RCW shall be allowed in any reporting period;

(b) The net commercial value of any materials captured or recovered through use of a facility shall, first, reduce the credit allowable in the current reporting period and thereafter be applied to reduce any credit balance allowed and not yet utilized: *Provided*, That for the purposes of this chapter the determination of "net commercial value" shall not include a deduction for the cost or depreciation of the facility.

(c) The total cumulative amount of such credits allowed for any facility covered by a certificate shall not exceed fifty percent of the cost of such facility.

(d) The total cumulative amount of credits against state taxes authorized by this chapter shall be reduced by the total amount of any federal investment credit or other federal tax credit actually received by the certificate holder applicable to the facility. This reduction shall be made as an offset against the credit claimed in the first reporting period following the allowance of such investment credit, and thereafter as an offset against any credit balance as it shall become available to the certificate holder.

(3) Applicants and certificate holders shall provide the department with information showing the net commercial value of materials captured or recovered by a facility and shall make all pertinent books and records available for examination by the department for the purposes of determining the credit provided by this chapter. [1981 2nd ex.s. c 9 § 3; 1967 ex.s. c 139 § 6.]

82.34.080 Modification or replacement of facility. If subsequent to the issuance of a certificate or supplement

for a facility, a determination is made to modify or replace such facility, the holder thereof may file an application for a new certificate or supplement covering such modified or replacement facility in accordance with the procedures set forth in this chapter for original certificates and supplements thereto: *Provided*, That an application for a new certificate or supplement covering such modified or replacement facility must be filed with the department not later than November 30, 1981. After the issuance by the department of any new certificate or supplement, all subsequent tax exemptions and credits for the modified or replacement facility shall be based thereon. [1981 2nd ex.s. c 9 § 4; 1967 ex.s. c 139 § 8.]

82.34.901 Severability—1981 2nd ex.s. c 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 2nd ex.s. c 9 § 5.]

Chapter 82.35

COGENERATION FACILITIES—TAX CREDITS

Sections

82.35.030	Application for cogeneration tax credit certificate— Contents—Approval—Issuance of certificate— Review of certificate—Issuance of modified certificate or supplement—Rules—Expiration of section.
82.35.040	Issuance of certificate—Limitations—Tabulation of costs incurred—Administrative rules.
82.35.050	Credit against taxes—Conditions—Amount—Limitations.

82.35.030 Application for cogeneration tax credit certificate—Contents—Approval—Issuance of certificate—Review of certificate—Issuance of modified certificate or supplement—Rules—Expiration of section. (1) An application for a certificate shall be filed with the department. The application shall contain the estimated or actual cost, plans, and specifications of the cogeneration facility, including all materials incorporated or to be incorporated therein, and a list describing and showing all expenditures made by the applicant for the purpose of cogeneration, together with the operating procedure for the facility, and if the facility has not been constructed, a time schedule for the acquisition and installation or attachment of the cogeneration facility and the proposed operating procedure for the cogeneration facility.

(2) The department shall provide a copy of the application to the energy office within ten days after receipt thereof. Within sixty days after receipt of the application from the department, the office shall approve the application but only if it first determines that construction of the cogeneration facility began or will begin after September 1, 1978, that the cogeneration facility is designed and is operated or will be operated primarily for cogeneration, and that the cogeneration facility is suitable, reasonably adequate, and meets the intent and purposes of this chapter.

(3) Within ten days after approval of the application, the office shall provide a copy thereof to the department. Within thirty days after receipt thereof the department shall issue the certificate but only if it finds that the cost data in the application is accurate.

If the application contains estimated cost data, the certificate shall be conditioned upon the applicant providing sufficient information for the department to determine the actual cost of the cogeneration facility on the date it becomes operational. Within sixty days after the cogeneration facility is operational the department shall review the certificate. If the actual cost of the cogeneration facility is less than the cost shown in the certificate, the department shall issue a modified certificate or a supplement to the original certificate, showing the actual cost of the cogeneration facility.

(4) The department, with the approval of the office, may adopt rules specifying the administrative procedures applicable to applications for certification, the form and manner in which the applications shall be filed and additional information to be contained therein. The rules shall apply to administrative procedures before both the office and the department. An applicant shall have the opportunity for a hearing before the office and the department in respect to their respective decisions granting or denying approval or certification.

This section shall expire on December 31, 1984. [1982 1st ex.s. c 2 § 2; 1979 ex.s. c 191 § 3.]

82.35.040 Issuance of certificate—Limitations—Tabulation of costs incurred—Administrative rules. (1) No certificate or supplement may be issued after December 31, 1984. No certificate including a supplement thereto may be issued for cogeneration facility costs in excess of ten million dollars for any application submitted under this chapter.

(2) The department shall keep a running tabulation of the total cogeneration facility costs incurred or planned to be incurred pursuant to certificates or supplements issued under this chapter. The department may not issue any new certificate or any supplement if the certificate or supplement would result in the tabulation exceeding one hundred million dollars. Nothing in this section shall be deemed to bar any certificate holder from amending the certificate or obtaining a supplement thereto so long as the amendment or supplement is issued prior to December 1, 1984, and does not increase the total amount of cogeneration facility costs incurred or planned to be incurred under the original certificate.

(3) The department may adopt any rules under chapter 34.04 RCW it considers necessary for the administration of this chapter. [1982 1st ex.s. c 2 § 3; 1979 ex.s. c 191 § 4.]

82.35.050 Credit against taxes—Conditions—Amount—Limitations. When a cogeneration facility is operational and a certificate pertaining thereto has been issued, a credit may be claimed against taxes imposed under chapter 82.04 RCW, if the due date for payment of the taxes is after the effective date of the certificate:

Provided, That the date on which the facility is operational is no more than four years after the date of issuance of the certificate. The amount of the credit shall be three percent of the cost of a facility covered by the certificate for each year the certificate remains in force. The credits shall be cumulative and shall be subject only to the following limitations:

(1) The tax credit shall apply to capital costs only and shall not apply to operating costs.

(2) A person, firm, corporation, or organization which acquires a cogeneration facility shall be entitled to the credit only to the extent that it has previously not been taken. Under no circumstances may a credit be taken more than once against any cost or portion thereof of a cogeneration facility.

(3) No credit exceeding fifty percent of the taxes payable under chapter 82.04 RCW shall be allowed in any reporting period.

(4) The total cumulative amount of the credits allowed for any cogeneration facility covered by a certificate shall not exceed fifty percent of the cost of the cogeneration facility less the total amount of federal investment credit or other federal tax credits applicable to the cogeneration facility.

(5) State credits shall not become available until one year after final cost verification by the department. [1982 1st ex.s. c 2 § 1; 1979 ex.s. c 191 § 5.]

Chapter 82.36

MOTOR VEHICLE FUEL TAX

Sections

82.36.020 Tax imposed—Rate to be computed—Allocation of proceeds.

82.36.020 Tax imposed—Rate to be computed—Allocation of proceeds. Every distributor shall pay, in addition to any other taxes provided by law, an excise tax to the director at a rate computed in the manner provided in RCW 82.36.025 for each gallon of motor vehicle fuel sold, distributed, or used by him in the state as well as on each gallon upon which he has assumed liability for payment of the tax under the provisions of RCW 82.36.100: *Provided*, That under such regulations as the director may prescribe sales or distribution of motor vehicle fuel may be made by one licensed distributor to another licensed distributor free of the tax. In the computation of the tax, one-quarter of one percent of the net gallonage otherwise taxable shall be deducted by the distributor before computing the tax due, on account of the losses sustained through handling. The tax imposed hereunder shall be in addition to any other tax required by law, and shall not be imposed under circumstances in which the tax is prohibited by the Constitution or laws of the United States. The tax herein imposed shall be collected and paid to the state but once in respect to any motor vehicle fuel. An invoice shall be rendered by a distributor to a purchaser for each distribution of motor vehicle fuel.

The proceeds of the motor vehicle fuel excise tax collected on the net gallonage after the deduction provided for herein and after the deductions for refunds and costs of collection as provided in RCW 46.68.090 as now or hereafter amended, shall be distributed as provided in RCW 46.68.100, as now or hereafter amended. [1982 1st ex.s. c 6 § 1; 1977 ex.s. c 317 § 2; 1974 ex.s. c 28 § 1. Prior: 1973 1st ex.s. c 160 § 1; 1973 1st ex.s. c 124 § 2; 1972 ex.s. c 24 § 1; 1970 ex.s. c 85 § 3; 1967 ex.s. c 145 § 75; 1967 ex.s. c 83 § 2; 1965 ex.s. c 79 § 2; 1963 c 113 § 1; 1961 ex.s. c 7 § 1; 1961 c 15 § 82.36.020; prior: 1957 c 247 § 1; 1955 c 207 § 1; 1951 c 269 § 43; 1949 c 220 § 7; 1939 c 177 § 2; 1933 c 58 § 5; Rem. Supp. 1949 § 8327-5; prior: 1931 c 140 § 2; 1923 c 81 § 1; 1921 c 173 § 2.]

Effective dates—Severability—1977 ex.s. c 317: See notes following RCW 82.36.010.

Effective date—1970 ex.s. c 85: See note following RCW 47.60.500.

Disbursal and release of funds: "All funds heretofore accumulated and undistributed to any city and town by reason of the matching requirements of the 1961 amendatory provisions in RCW 82.36.020 and 82.40.290 shall be immediately disbursed and released for use in accordance with the 1967 amendatory provisions of RCW 82.36.020 and 82.40.290.

This section 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." [1967 ex.s. c 83 § 63.]

Severability—Effective date—1967 ex.s. c 83: See RCW 47.26-900 and 47.26.910.

Chapter 82.37

MOTOR VEHICLE FUEL IMPORTER TAX ACT

Sections

82.37.175 Administration, collection, and enforcement of taxes pursuant to chapter 82.41 RCW.

82.37.175 Administration, collection, and enforcement of taxes pursuant to chapter 82.41 RCW. For the purposes of administration, collection, and enforcement of taxes imposed under this chapter, pursuant to an agreement under chapter 82.41 RCW, chapter 82.41 RCW shall control to the extent of any conflict. [1982 c 161 § 13.]

Chapter 82.38

SPECIAL FUEL TAX ACT

Sections

82.38.265 Administration, collection, and enforcement of taxes pursuant to chapter 82.41 RCW.

82.38.265 Administration, collection, and enforcement of taxes pursuant to chapter 82.41 RCW. For the purposes of administration, collection, and enforcement of taxes imposed under this chapter, pursuant to an agreement under chapter 82.41 RCW, chapter 82.41 RCW shall control to the extent of any conflict. [1982 c 161 § 14.]

Chapter 82.41

MULTISTATE MOTOR FUEL TAX AGREEMENT

Sections

82.41.010	Purpose.
82.41.020	Definitions.
82.41.030	Motor fuel tax cooperative agreement authorized— Prohibition.
82.41.040	Determination of amount of tax collected on behalf of this state.
82.41.050	Provisions of agreement.
82.41.060	Credits—Refunds.
82.41.070	Audits.
82.41.080	Investigatory power.
82.41.090	Appeal procedures.
82.41.100	Exchange of information.
82.41.110	Construction and application.
82.41.120	Implementing rules required.

82.41.010 Purpose. It is the purpose of this chapter to simplify the confusing, unnecessarily duplicative, and burdensome motor fuel use tax licensing, reporting, and remittance requirements imposed on motor carriers involved in interstate commerce by authorizing the state of Washington to participate in a multistate motor fuel tax agreement for the administration, collection, and enforcement of those states' motor fuel use taxes. [1982 c 161 § 1.]

82.41.020 Definitions. As used in this chapter unless the context clearly requires otherwise:

- (1) "Department" means the department of licensing;
- (2) "Motor fuel" means all combustible gases and liquids used for the generation of power for propulsion of motor vehicles;
- (3) "Motor carrier" means an individual, partnership, firm, association, or private or public corporation engaged in interstate commercial operation of motor vehicles, any part of which is within this state or any other state which is party to an agreement under this chapter;
- (4) "State" means a state, territory, or possession of the United States, the District of Columbia, a foreign country, or a state or province of a foreign country;
- (5) "Base state" means the state in which the motor carrier is legally domiciled, or in the case of a motor carrier who has no legal domicile, the state from or in which the motor carrier's vehicles are most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled;
- (6) "Agreement" means a motor fuel tax agreement under this chapter;
- (7) "Licensee" means a motor carrier who has been issued a fuel tax license under a motor fuel tax agreement. [1982 c 161 § 2.]

82.41.030 Motor fuel tax cooperative agreement authorized—Prohibition. The department may enter into a motor fuel tax cooperative agreement with another state or states which provides for the administration, collection, and enforcement of each state's motor fuel taxes on motor fuel used by motor carriers. The agreement shall not contain any provision which exempts any motor vehicle, owner, or operator from complying with the laws, rules, and regulations pertaining to vehicle

licensing, size, weight, load, or operation of motor vehicles upon the public highways of this state. [1982 c 161 § 3.]

82.41.040 Determination of amount of tax collected on behalf of this state. The amount of the tax imposed and collected on behalf of this state under an agreement entered into under this chapter shall be determined as provided in chapters 82.37 and 82.38 RCW. [1982 c 161 § 4.]

82.41.050 Provisions of agreement. An agreement entered into under this chapter may provide for:

- (1) Defining the classes of motor vehicles upon which taxes are to be collected under the agreement;
- (2) Establishing methods for base state fuel tax licensing, license revocation, and tax collection from motor carriers on behalf of the states which are parties to the agreement;
- (3) Establishing procedures for the granting of credits or refunds on the purchase of excess tax-paid fuel;
- (4) Defining conditions and criteria relative to bonding requirements, including criteria for exemption from bonding;
- (5) Establishing tax reporting periods not to exceed one calendar quarter, and tax report due dates not to exceed one calendar month after the close of the reporting period;
- (6) Penalties and interest for filing of tax reports after the due dates prescribed by the agreement;
- (7) Establishing procedures for forwarding of fuel taxes, penalties, and interest collected on behalf of another state to that state;
- (8) Recordkeeping requirements for licensees; and
- (9) Any additional provisions which will facilitate the administration of the agreement. [1982 c 161 § 5.]

82.41.060 Credits—Refunds. Any licensee purchasing more tax-paid motor fuel in this state than the licensee uses in this state during the course of a reporting period shall be permitted a credit against future tax liability for the excess tax-paid fuel purchased. Upon request, this credit may be refunded to the licensee by the department in accordance with the agreement. [1982 c 161 § 6.]

82.41.070 Audits. The agreement may require the department to perform audits of licensees, or persons required to be licensed, based in this state to determine whether motor fuel taxes to be collected under the agreement have been properly reported and paid to each state party to the agreement. The agreement may authorize other states to perform audits on licensees, or persons required to be licensed, based in their states on behalf of the state of Washington and forward the audit findings to the department. Such findings may be served upon the licensee or such other person in the same manner as audits performed by the department.

The agreement shall not preclude the department from auditing the records of any person who has used motor fuels in this state. Any licensee or person required

to be licensed from whom the department has requested records shall make the records available at the location designated by the department or may request the department to audit such records at that licensee's or person's place of business. If the place of business is located outside this state, the department may require the licensee or such other person to reimburse the department for authorized per diem and travel expenses. [1982 c 161 § 7.]

82.41.080 Investigatory power. The department may initiate and conduct investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with this chapter or any rules issued hereunder.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In case of contumacy by or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him to appear before the director, or the officer designated by the director, to produce testimony or other evidence touching the matter under investigation or in question. The failure to obey an order of the court may be punishable by contempt. [1982 c 161 § 8.]

82.41.090 Appeal procedures. The agreement shall specify procedures by which a licensee may appeal a license revocation or audit assessment by the department. Such appeal procedures shall be in accordance with chapters 34.04 and 82.38 RCW. [1982 c 161 § 9.]

82.41.100 Exchange of information. The agreement may require each state to forward to other states any information available which relates to the acquisition, sale, use, or movement of motor fuels by any licensee or person required to be licensed. The department may further disclose to other states information which relates to the persons, offices, motor vehicles and other real and personal property of persons licensed or required to be licensed under the agreement. [1982 c 161 § 10.]

82.41.110 Construction and application. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it for the purpose of participating in a multistate motor fuel tax agreement. [1982 c 161 § 11.]

82.41.120 Implementing rules required. The department shall adopt such rules as are necessary to implement this chapter and any agreement entered into under this chapter. [1982 c 161 § 12.]

Chapter 82.42 AIRCRAFT FUEL TAX

Sections	
82.42.010	Definitions.
82.42.020	Aircraft fuel tax imposed—Exception—Rate to be computed.
82.42.025	Computation of aircraft fuel tax rate.
82.42.030	Exemptions.
82.42.040	Collection of tax—Procedure—Licensing—Surety bond or other security—Records, reports, statements.
82.42.070	Imports, exports, sales to United States government exempted—Procedure—Sales to state or political subdivisions not exempt—Refund procedures.
82.42.080	Violations—Penalty.
82.42.090	Tax proceeds—Disposition—Aeronautics account created.
82.42.110	Tax upon persons other than distributors—Imposition—Collection—Distribution—Enforcement.

82.42.010 Definitions. For the purposes of this chapter:

- (1) "Department" means the department of licensing;
- (2) "Director" means the director of licensing;
- (3) "Person" means every natural person, firm, partnership, association, or private or public corporation;
- (4) "Aircraft" means every contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, operated or propelled by the use of aircraft fuel;
- (5) "Aircraft fuel" means gasoline and any other inflammable liquid, by whatever name such liquid is known or sold, the chief use of which is as fuel for the propulsion of aircraft, except gas or liquid, the chief use of which as determined by the director, is for purposes other than the propulsion of aircraft;
- (6) "Dealer" means any person engaged in the retail sale of aircraft fuel;
- (7) "Distributor" means any person engaged in the sale of aircraft fuel to any dealer and shall include any dealer from whom the tax hereinafter imposed has not been collected;
- (8) "Weighted average retail sales price of aircraft fuel" means the average retail sales price excluding any federal excise tax of the several grades of aircraft fuel sold by dealers throughout the state (less any state excise taxes on the sale, distribution, or use thereof) weighted to reflect the quantities sold at each price;
- (9) "Fiscal half-year" means a six-month period ending June 30th or December 31st;
- (10) "Local service commuter" means an air taxi operator who operates at least five round-trips per week between two or more points; publishes flight schedules which specify the times, days of the week, and points between which it operates; and whose aircraft has a maximum capacity of sixty passengers or eighteen thousand pounds of useful load. [1982 1st ex.s. c 25 § 1; 1979 c 158 § 229; 1969 ex.s. c 254 § 1; 1967 ex.s. c 10 § 1.]

Severability—1982 1st ex.s. c 25: "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." [1982 1st ex.s. c 25 § 11.]

Effective date—1982 1st ex.s. c 25: "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, 1982." [1982 1st ex.s. c 25 § 12.]

Effective date—1969 ex.s. c 254: "The effective date of this 1969 amendatory act is July 1, 1969." [1969 ex.s. c 254 § 7.]

82.42.020 Aircraft fuel tax imposed—Exception—Rate to be computed. There is hereby levied, and there shall be collected by every distributor of aircraft fuel, an excise tax at the rate computed under RCW 82.42.025 on each gallon of aircraft fuel sold, delivered or used in this state: *Provided however*, That such aircraft fuel excise tax shall not apply to fuel for aircraft that both operate from a private, non-state-funded airfield during at least ninety-five percent of the aircraft's normal use and are used principally for the application of pesticides, herbicides, or other agricultural chemicals: *Provided further*, That there shall be collected from every consumer or user of aircraft fuel either the use tax imposed by RCW 82.12.020, as amended, or the retail sales tax imposed by RCW 82.08.020, as amended, collection procedure to be as prescribed by law and/or rule or regulation of the department of revenue. The taxes imposed by this chapter shall be collected and paid to the state but once in respect to any aircraft fuel. [1982 1st ex.s. c 25 § 2; 1969 ex.s. c 254 § 2; 1967 ex.s. c 10 § 2.]

Severability—**Effective date**—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

82.42.025 Computation of aircraft fuel tax rate. (1) During the fifth month of each fiscal half-year ending June 30th and December 31st of each year, the department of licensing shall compute an aircraft fuel tax rate to the nearest one-half cent per gallon of aircraft fuel by multiplying three percent times the weighted average retail sales price of aircraft fuel, per gallon, sold within the state in the third month of the fiscal half-year. The department shall determine the weighted average retail sales price of aircraft fuel by state-wide sampling and survey techniques designed to reflect these prices for the third month of the fiscal half-year. The department shall establish reasonable guidelines for its sampling and survey methods.

(2) The excise tax rate computed under subsection (1) of this section shall apply to the sale, distribution, or use of aircraft fuel beginning the fiscal half-year following computation of the rate and shall remain in effect for each succeeding fiscal half-year until a subsequent computation requires a change in the rate. For the first fiscal half-year after June 30, 1982, the aircraft fuel tax shall be five cents per gallon. [1982 1st ex.s. c 25 § 3.]

Severability—**Effective date**—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

82.42.030 Exemptions. The provision of RCW 82.42.020 imposing the payment of an excise tax on each gallon of aircraft fuel sold, delivered or used in this state shall not apply to aircraft fuel used for the following purposes: (1) The operation of aircraft when such use is by any air carrier or supplemental air carrier operating

under a certificate of public convenience and necessity under the provisions of the Federal Aviation Act of 1958, Public Law 85-726, as amended; (2) the operation of aircraft for testing or experimental purposes; (3) the operation of aircraft when such operation is for the training of crews in Washington state for purchasers of aircraft who are certified air carriers; and (4) the operation of aircraft in the operations of a local service commuter: *Provided*, That the director's determination as to a particular activity for which aircraft fuel is used as being an exemption under this section, or otherwise, shall be final. [1982 1st ex.s. c 25 § 4; 1967 ex.s. c 10 § 3.]

Severability—**Effective date**—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

82.42.040 Collection of tax—Procedure—Licensing—Surety bond or other security—Records, reports, statements. The director shall by rule and regulation adopted as provided in chapter 34.04 RCW (Administrative Procedure Act) set up the necessary administrative procedure for collection by the department of the aircraft fuel excise tax as provided for in RCW 82.42.020, placing the responsibility of collection of said tax upon every distributor of aircraft fuel within the state; he may require the licensing of every distributor of aircraft fuel and shall require such a corporate surety bond or security of any distributor or person not otherwise bonded under provisions of chapter 82.36 RCW as is provided for distributors of motor vehicle fuel under RCW 82.36.060; he shall provide such forms and may require such reports or statements as in his determination shall be necessary for the proper administration of this chapter. The director may require such records to be kept, and for such periods of time, as deemed necessary for the administration of this chapter, which records shall be available at all times for the director or his representative who may require a statement under oath as to the contents thereof. [1982 1st ex.s. c 25 § 5; 1969 ex.s. c 254 § 3; 1967 ex.s. c 10 § 4.]

Severability—**Effective date**—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

82.42.070 Imports, exports, sales to United States government exempted—Procedure—Sales to state or political subdivisions not exempt—Refund procedures. The provisions of RCW 82.42.020 requiring the payment of an aircraft fuel excise tax on aircraft fuel shall not apply to aircraft fuel imported into the state in interstate or foreign commerce and intended to be sold while in interstate or foreign commerce, nor to aircraft fuel exported from this state, nor to aircraft fuel sold to the United States government or any agency thereof: *Provided*, That exemptions granted under this section shall be null and void unless full conformance is made with the requisite administrative procedure set forth for procuring such exemptions under rules and regulations of the director promulgated under the provisions of this chapter. Except as provided in RCW 82.42.030, nothing in this chapter shall be construed to exempt the state or any political subdivision thereof from the payment of the

aircraft excise fuel tax provided in RCW 82.42.020. When setting up rules and regulations as provided for in RCW 82.42.040, the director shall provide for such refund procedure as deemed necessary to carry out the provisions of this chapter, and full compliance with such provisions shall be essential before receipt of any refund thereunder. [1982 1st ex.s. c 25 § 6; 1971 ex.s. c 156 § 4; 1967 ex.s. c 10 § 7.]

Severability—Effective date—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

82.42.080 Violations—Penalty. Any person violating any provision of this chapter or any rule or regulation of the director promulgated hereunder, or making any false statement, or concealing any material fact in any report, statement, record or claim, or who commits any act with intent to avoid payment of the aircraft fuel excise tax imposed by this chapter, or who conspires with another person with intent to interfere with the orderly collection of such tax due and owing under this chapter, shall be guilty of a misdemeanor. [1982 1st ex.s. c 25 § 7; 1967 ex.s. c 10 § 8.]

Severability—Effective date—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

82.42.090 Tax proceeds—Disposition—Aeronautics account created. All moneys collected by the director from the aircraft fuel excise tax as provided in RCW 82.42.020 shall be transmitted to the state treasurer and shall be credited to the aeronautics account of the state general fund, hereby created. Moneys collected from the consumer or user of aircraft fuel from either the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020 shall be transmitted to the state treasurer and credited to the state general fund. [1982 1st ex.s. c 25 § 8; 1967 ex.s. c 10 § 9.]

Severability—Effective date—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

82.42.110 Tax upon persons other than distributors—Imposition—Collection—Distribution—Enforcement. Every person other than a distributor who acquires any aircraft fuel within this state upon which payment of tax is required under the provisions of this chapter, or imports such aircraft fuel into this state and sells, delivers, or in any manner uses it in this state shall, if the tax has not been paid, be subject to the provisions of RCW 82.42.040 provided for distributors and shall pay a tax at the rate computed under RCW 82.42.025 for each gallon thereof so sold, delivered, or used in the manner provided for distributors. The proceeds of the tax imposed by this section shall be distributed in the manner provided for the distribution of the aircraft fuel tax in RCW 82.42.090. For failure to comply with the terms of this chapter, such person shall be subject to the same penalties imposed upon distributors. The director shall pursue against such persons the same procedure and remedies for audits, adjustments, collection, and enforcement of this chapter as is provided with respect to

distributors. Nothing herein shall be construed as classifying such persons as distributors. [1982 1st ex.s. c 25 § 9; 1971 ex.s. c 156 § 5.]

Severability—Effective date—1982 1st ex.s. c 25: See notes following RCW 82.42.010.

Chapter 82.44

MOTOR VEHICLE EXCISE TAX

Sections

82.44.015	Ride-sharing vans and vehicles excluded—Notice—Liability for tax. (Expires January 1, 1988.)
82.44.020	Basic tax imposed—Temporary additional taxes imposed—Exceptions.
82.44.110	Disposition of revenue.
82.44.150	Apportionment and distribution of motor vehicle excise taxes generally (as amended by 1982 1st ex.s. c 35).
82.44.150	Apportionment and distribution of motor vehicle excise taxes generally (as amended by 1982 1st ex.s. c 49).

82.44.015 Ride-sharing vans and vehicles excluded—Notice—Liability for tax. (Expires January 1, 1988.) For the purposes of this chapter, in addition to the exclusions under RCW 82.44.010, "motor vehicle" shall not include: (1) Vans used regularly as ride-sharing vehicles, as defined in RCW 46.74.010(3), by not fewer than seven persons, including passengers and driver, or not fewer than five persons including the driver, when at least three of those persons are confined to wheelchairs when riding; or (2) vehicles with a seating capacity greater than fifteen persons which otherwise qualify as ride-sharing vehicles under RCW 46.74.010(3) used exclusively for ride sharing for the elderly or the handicapped by not fewer than seven persons, including driver. The registered owner of one of these vehicles shall notify the department of licensing upon termination of regular use of the vehicle as a ride-sharing vehicle and shall be liable for the tax imposed by this chapter, prorated on the remaining months for which the vehicle is licensed. [1982 c 142 § 1; 1980 c 166 § 3.]

Reviser's note: 1980 c 166 § 3, which expires on January 1, 1988, was subsequently amended by 1982 c 142 § 1.

Severability—Expiration date—1980 c 166: See notes following RCW 82.08.0287.

82.44.020 Basic tax imposed—Temporary additional taxes imposed—Exceptions. (1) An excise tax is imposed for the privilege of using in the state any motor vehicle, except those operated under reciprocal agreements, the provisions of RCW 46.16.160 as now or hereafter amended, or dealer's licenses. The annual amount of such excise tax shall be two percent of the fair market value of such vehicle.

(2) From and after August 1, 1978, and until August 1, 2008, an additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise shall be two-tenths of one percent of the fair market value of such vehicle.

(3) The department of licensing and county auditors shall collect the additional tax imposed by subsection (2) of this section for any registration year for the months of that registration year in which such additional tax is effective, and in the same manner and at the same time as the tax imposed by subsection (1) of this section.

(4) In no case shall the total tax be less than two dollars except for proportionally registered vehicles.

(5) From and after the first day of July, 1982, until and including the thirtieth day of September, 1983, an additional tax is imposed equal to the taxes payable under subsections (1) and (2) of this section multiplied by the rate of tax applicable to the periods shown as follows:

July 1 – September 30, 1982	4%
October 1 – June 30, 1983	7%
July 1 – September 30, 1983	3%

[1982 2nd ex.s. c 14 § 2; 1982 1st ex.s. c 35 § 26; 1981 c 222 § 10; 1979 c 158 § 230; 1977 ex.s. c 332 § 1; 1963 c 199 § 2; 1961 c 15 § 82.44.020. Prior: 1959 ex.s. c 3 § 19; 1957 c 261 § 10; 1943 c 144 § 2; Rem. Supp. 1943 § 6312–116; prior: 1937 c 228 § 2, part.]

Effective date—Applicability—1982 2nd ex.s. c 14: See note following RCW 82.02.030.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective date—1977 ex.s. c 332: "This 1977 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, 1977." [1977 ex.s. c 332 § 4.]

Severability—1977 ex.s. c 332: "If any provision of this 1977 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." [1977 ex.s. c 332 § 3.]

82.44.110 Disposition of revenue. The county auditor shall regularly, when remitting license fee receipts, pay over and account to the director of licensing for the excise taxes collected under the provisions of this chapter. The director shall forthwith transmit the excise taxes to the state treasurer, ninety-eight percent of which excise tax revenue shall upon receipt thereof be credited by the state treasurer to the general fund, and two percent of which excise tax revenue shall be credited by the state treasurer to the motor vehicle fund to defray administrative and other expenses incurred by the state department of licensing in the collection of the excise tax: *Provided*, That one hundred percent of the proceeds of the additional two-tenths of one percent excise tax imposed by RCW 82.44.020(2), as now or hereafter amended, shall be credited by the state treasurer to the Puget Sound capital construction account in the motor vehicle fund: *Provided further*, That all revenues collected under RCW 82.44.020(5) shall be credited by the state treasurer to the general fund. [1982 1st ex.s. c 35 § 12; 1979 c 158 § 235; 1977 ex.s. c 332 § 2; 1974 ex.s. c 54 § 3; 1967 c 121 § 1; 1961 c 15 § 82.44.110. Prior: 1957 c 128 § 1; 1955 c 259 § 6; 1943 c 144 § 10; Rem. Supp. 1943 § 6312–124; prior: 1937 c 228 § 9.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective date—Severability—1977 ex.s. c 332: See notes following RCW 82.44.020.

Severability—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 (as amended by 1982 1st ex.s. c 35). (1) The director of licensing shall on the twenty-fifth day of February, May, August and November of each year, commencing with November, 1971, advise the state treasurer of the total amount of motor vehicle excise taxes remitted to the department of licensing during the preceding calendar quarter ending on the last day of March, June, September and December, respectively, except for those payable under RCW 82.44.020(5), 82.44.030, and 82.44.070, from motor vehicle owners residing within each municipality which has levied a tax under RCW 35.58.273, which amount of excise taxes shall be determined by the director as follows:

The total amount of motor vehicle excise taxes remitted to the department, except those payable under RCW 82.44.020(5), 82.44.030, and 82.44.070, from each county shall be multiplied by a fraction, the numerator of which is the population of the municipality residing in such county, and the denominator of which is the total population of the county in which such municipality or portion thereof is located. The product of this computation shall be the amount of excise taxes from motor vehicle owners residing within such municipality or portion thereof. Where the municipality levying a tax under RCW 35.58.273 is located in more than one county, the above computation shall be made by county, and the combined products shall provide the total amount of motor vehicle excise taxes from motor vehicle owners residing in the municipality as a whole. Population figures required for these computations shall be supplied to the director by the office of financial management, who shall adjust the fraction annually.

(2) On the first day of the months of January, April, July, and October of each year, the state treasurer based upon information provided by the department of licensing shall make the following apportionment and distribution of motor vehicle excise taxes deposited in the general fund except taxes collected under RCW 82.44.020(5). A sum equal to seventeen percent thereof shall be paid to cities and towns in the proportions and for the purposes hereinafter set forth; a sum equal to seventy percent of all motor vehicle excise tax receipts, except taxes collected under RCW 82.44.020(5), shall be allocable to the state school equalization fund and credited and transferred each year in the following order of priority:

(a) The amount required and certified by the state finance committee each year as being necessary for payment of principal of and interest on bonds authorized by RCW 28A.47.760 through 28A.47.774 in the ensuing twelve months and any additional amounts required by the covenants of such bonds shall be transferred from the state school equalization fund to the 1963 public school building bond retirement fund.

(b) Any remaining amounts in the state school equalization fund from the motor vehicle excise taxes not required for debt service on the above bond issues shall be transferred and credited to the general fund.

(3) The amount payable to cities and towns shall be apportioned among the several cities and towns within the state ratably, on the basis of the population as last determined by the office of financial management.

(4) When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be utilized by such city or town for the purposes of police and fire protection and the preservation of the public health therein, and not otherwise. In case it be adjudged that revenue derived from the excise tax imposed by this chapter cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.

(5) On the first day of the months of January, April, July, and October of each year, the state treasurer, based upon information provided by the department of licensing, shall remit motor vehicle excise tax revenues imposed and collected under RCW 35.58.273 as follows:

(a) The amount required to be remitted by the state treasurer to the treasurer of any municipality levying the tax shall not exceed in any calendar year the amount of locally-generated tax revenues, excluding the excise tax imposed under RCW 35.58.273 for the purposes of this

section, which shall have been budgeted by the municipality to be collected in such calendar year for any public transportation purposes including but not limited to operating costs, capital costs, and debt service on general obligation or revenue bonds issued for these purposes; and

(b) In no event may the amount remitted in a single calendar quarter exceed the amount collected on behalf of the municipality under RCW 35.58.273 during the calendar quarter next preceding the immediately preceding quarter.

(6) At the close of each calendar year accounting period, but not later than April 1, each municipality that has received motor vehicle excise taxes under subsection (5) of this section shall transmit to the director of licensing and the state auditor a written report showing by source the previous year's budgeted tax revenues for public transportation purposes as compared to actual collections. Any municipality that has not submitted the report by April 1 shall cease to be eligible to receive motor vehicle excise taxes under subsection (5) of this section until the report is received by the director of licensing. If a municipality has received more or less money under subsection (5) of this section for the period covered by the report than it is entitled to receive by reason of its locally-generated collected tax revenues, the director of licensing shall, during the next ensuing quarter that the municipality is eligible to receive motor vehicle excise tax funds, increase or decrease the amount to be remitted in an amount equal to the difference between the locally-generated budgeted tax revenues and the locally-generated collected tax revenues. In no event may the amount remitted for a calendar year exceed the amount collected on behalf of the municipality under RCW 35.58.273 during that same calendar year. At the time of the next fiscal audit of each municipality, the state auditor shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

(7) The motor vehicle excise taxes imposed under RCW 35.58.273 and required to be remitted under this section shall be remitted without legislative appropriation.

(8) Any municipality levying and collecting a tax under RCW 35.58.273 which does not have an operating, public transit system or a contract for public transportation services in effect within one year from the initial effective date of the tax shall return to the state treasurer all motor vehicle excise taxes received under subsection (5) of this section. [1982 1st ex.s. c 35 § 13; 1979 ex.s. c 175 § 4; 1979 c 158 § 238; 1974 ex.s. c 54 § 5; 1972 ex.s. c 87 § 1. Prior: 1971 ex.s. c 199 § 2; 1971 ex.s. c 80 § 1; 1969 ex.s. c 255 § 15; 1961 c 15 § 82.44.150; prior: 1957 c 175 § 12; 1945 c 152 § 5; 1943 c 144 § 14; Rem. Supp. 1945 § 6312-128.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

82.44.150 Apportionment and distribution of motor vehicle excise taxes generally (as amended by 1982 1st ex.s. c 49). (1) The director of licensing shall on the twenty-fifth day of February, May, August and November of each year, commencing with November, 1971, advise the state treasurer of the total amount of motor vehicle excise taxes remitted to the department of licensing during the preceding calendar quarter ending on the last day of March, June, September and December, respectively, except for those payable under RCW 82.44.030 and 82.44.070, from motor vehicle owners residing within each municipality which has levied a tax under RCW 35.58.273, which amount of excise taxes shall be determined by the director as follows:

The total amount of motor vehicle excise taxes remitted to the department, except those payable under RCW 82.44.030 and 82.44.070, from each county shall be multiplied by a fraction, the numerator of which is the population of the municipality residing in such county, and the denominator of which is the total population of the county in which such municipality or portion thereof is located. The product of this computation shall be the amount of excise taxes from motor vehicle owners residing within such municipality or portion thereof. Where the municipality levying a tax under RCW 35.58.273 is located in more than one county, the above computation shall be made by county, and the combined products shall provide the total amount of motor vehicle excise taxes from motor vehicle owners residing in the municipality as a whole. Population figures required for these computations shall be supplied to the director by the office of financial management, who shall adjust the fraction annually.

(2) On the first day of the months of January, April, July, and October of each year, the state treasurer based upon information provided

by the department of licensing shall make the following apportionment and distribution of motor vehicle excise taxes deposited in the general fund. A sum equal to seventeen percent thereof shall be paid to cities and towns in the proportions and for the purposes hereinafter set forth; a sum equal to two percent of all motor vehicle excise tax receipts shall be allocable to the county sales and use tax equalization account under RCW 82.14.200; and a sum equal to seventy percent of all motor vehicle excise tax receipts shall be allocable to the state school equalization fund and credited and transferred each year in the following order of priority:

(a) The amount required and certified by the state finance committee each year as being necessary for payment of principal of and interest on bonds authorized by RCW 28A.47.760 through 28A.47.774 in the ensuing twelve months and any additional amounts required by the covenants of such bonds shall be transferred from the state school equalization fund to the 1963 public school building bond retirement fund.

(b) Any remaining amounts in the state school equalization fund from the motor vehicle excise taxes not required for debt service on the above bond issues shall be transferred and credited to the general fund.

(3) The amount payable to cities and towns shall be apportioned among the several cities and towns within the state according to the following formula:

(a) Sixty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned ratably on the basis of population as last determined by the office of financial management.

(b) Thirty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned to cities and towns under RCW 82.14.210.

(4) When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be utilized by such city or town for the purposes of police and fire protection and the preservation of the public health therein, and not otherwise. In case it be adjudged that revenue derived from the excise tax imposed by this chapter cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.

(5) On the first day of the months of January, April, July, and October of each year, the state treasurer, based upon information provided by the department of licensing, shall remit motor vehicle excise tax revenues imposed and collected under RCW 35.58.273 as follows:

(a) The amount required to be remitted by the state treasurer to the treasurer of any municipality levying the tax shall not exceed in any calendar year the amount of locally-generated tax revenues, excluding the excise tax imposed under RCW 35.58.273 for the purposes of this section, which shall have been budgeted by the municipality to be collected in such calendar year for any public transportation purposes including but not limited to operating costs, capital costs, and debt service on general obligation or revenue bonds issued for these purposes; and

(b) In no event may the amount remitted in a single calendar quarter exceed the amount collected on behalf of the municipality under RCW 35.58.273 during the calendar quarter next preceding the immediately preceding quarter.

(6) At the close of each calendar year accounting period, but not later than April 1, each municipality that has received motor vehicle excise taxes under subsection (5) of this section shall transmit to the director of licensing and the state auditor a written report showing by source the previous year's budgeted tax revenues for public transportation purposes as compared to actual collections. Any municipality that has not submitted the report by April 1 shall cease to be eligible to receive motor vehicle excise taxes under subsection (5) of this section until the report is received by the director of licensing. If a municipality has received more or less money under subsection (5) of this section for the period covered by the report than it is entitled to receive by reason of its locally-generated collected tax revenues, the director of licensing shall, during the next ensuing quarter that the municipality is eligible to receive motor vehicle excise tax funds, increase or decrease the amount to be remitted in an amount equal to the difference between the locally-generated budgeted tax revenues and the locally-generated collected tax revenues. In no event may the amount remitted for a calendar year exceed the amount collected on behalf of the municipality under RCW 35.58.273 during that same calendar year. At the time of the next fiscal audit of each municipality, the state auditor

shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

(7) The motor vehicle excise taxes imposed under RCW 35.58.273 and required to be remitted under this section shall be remitted without legislative appropriation.

(8) Any municipality levying and collecting a tax under RCW 35.58.273 which does not have an operating, public transit system or a contract for public transportation services in effect within one year from the initial effective date of the tax shall return to the state treasurer all motor vehicle excise taxes received under subsection (5) of this section. [1982 1st ex.s. c 49 § 20; 1979 ex.s. c 175 § 4; 1979 c 158 § 238; 1974 ex.s. c 54 § 5; 1972 ex.s. c 87 § 1. Prior: 1971 ex.s. c 199 § 2; 1971 ex.s. c 80 § 1; 1969 ex.s. c 255 § 15; 1961 c 15 § 82.44.150; prior: 1957 c 175 § 12; 1945 c 152 § 5; 1943 c 144 § 14; Rem. Supp. 1945 § 6312-128.]

Reviser's note: RCW 82.44.150 was amended twice during the 1982 first extraordinary session of the legislature, each without reference to the other.

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

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Effective date—1979 ex.s. c 175: "Section 4 of this act shall take effect on January 1, 1980." [1979 ex.s. c 175 § 6.] This applies to the amendments to RCW 82.44.150 by 1979 ex.s. c 175.

Severability—Transitional sections—Effective dates—1974 ex.s. c 54: See notes following RCW 82.44.070.

Chapter 82.45

EXCISE TAX ON REAL ESTATE SALES

Sections

- 82.45.060 Tax imposed on sale of property—Temporary additional tax imposed.
- 82.45.100 Tax payable at time of sale—Interest, penalty, on unpaid or delinquent taxes—Prohibition on certain assessments or refunds.
- 82.45.180 Disposition of proceeds—Support of common schools.

Savings—Audits, assessments, and refunds—Disposition of certain funds—1982 c 176; 1980 c 154: "Chapter 154, Laws of 1980 shall not be construed as invalidating, abating, or otherwise affecting any existing right acquired or any liability or obligation incurred under the provisions of the statutes amended or repealed, nor any process, proceeding, or judgment involving the assessment of any property or the levy or collection of any tax thereunder, nor the validity of any certificate of delinquency, tax deed or other instrument of sale or other proceeding thereunder, nor any criminal or civil proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder: *Provided*, That the department of revenue may conduct audits, make assessments, and grant refunds under RCW 82.45.100 and 82.45.150 with respect to any sale. Funds received by the county treasurer as payment of a tax liability incurred under a statute repealed by chapter 154, Laws of 1980 shall be paid and accounted for as provided in RCW 82.45.180." [1982 c 176 § 3; 1980 c 154 § 15.]

82.45.060 Tax imposed on sale of property—Temporary additional tax imposed. (1) There is imposed an excise tax upon each sale of real property at the rate of one percent of the selling price.

(2) From and after the first day of May, 1982, until and including the thirtieth day of June, 1983, an additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. [1982 1st ex.s. c 35 § 14; 1980 c

[1982 RCW Supp—page 666]

154 § 2; 1969 ex.s. c 223 § 28A.45.060. Prior: 1951 1st ex.s. c 11 § 5. Formerly RCW 28A.45.060, 28.45.060.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

82.45.100 Tax payable at time of sale—Interest, penalty, on unpaid or delinquent taxes—Prohibition on certain assessments or refunds. (1) The tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within thirty days thereafter shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

(2) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department shall assess against the taxpayer the additional amount found to be due plus interest as provided in subsection (1) of this section. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable under this chapter, a penalty of fifty percent of the additional tax found to be due shall be added.

(3) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of fraud or of misrepresentation of a material fact by the taxpayer or a failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer. [1982 c 176 § 1; 1981 c 167 § 2.]

Audits, assessments, and refunds—1982 c 176: See note following chapter digest.

Effective date—1981 c 167: See note following RCW 82.45.150.

82.45.180 Disposition of proceeds—Support of common schools. The county treasurer shall place one percent of the proceeds of the tax imposed by this chapter in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department of revenue for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. The proceeds of the tax on any sale occurring prior to September 1, 1981, when the proceeds have not been certified by an educational service district superintendent for school districts prior to September 1, 1981, shall be included in the amount remitted to the state treasurer. The state treasurer shall deposit the proceeds in the general fund for the support of the common schools. [1982 c 176 § 2; 1981 c 167 § 3; 1980 c 154 § 6.]

Audits, assessments, and refunds—1982 c 176: See note following chapter digest.

Effective date—1981 c 167: See note following RCW 82.45.150.

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

Chapter 82.46

COUNTIES AND CITIES—EXCISE TAX ON REAL ESTATE SALES

Sections

82.46.010 Tax on sale of real property authorized—Additional tax authorized—Maximum rates.

82.46.020 Imposition or alteration of additional tax—Special initiative procedure required.

82.46.030 Disposition and distribution of proceeds.

82.46.040 Tax is lien on property—Enforcement.

82.46.050 Tax is seller's obligation—Choice of remedies.

82.46.060 Payment of tax—Evidence of payment—Recording.

82.46.010 Tax on sale of real property authorized—Additional tax authorized—Maximum rates.

(1) Subject to the enactment into law of the 1982 amendment to RCW 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., the governing body of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price.

(2) Subject to the enactment into law of the 1982 amendment to RCW 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in lieu of imposing the tax authorized in RCW 82.14.030(2), the governing body of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(3) Taxes imposed under this section shall be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(4) Taxes imposed under this section shall comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

(5) As used in this section, "city" means any city or town. [1982 1st ex.s. c 49 § 11.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.46.020 Imposition or alteration of additional tax—Special initiative procedure required. Every county and city imposing a tax under RCW 82.46.010(2) shall provide for a special initiative procedure on an ordinance imposing or altering each tax. Such a special initiative procedure shall subject the ordinance imposing or altering the tax to approval or rejection by the voters. If the voters of the county or city otherwise possess the general power of initiative on county or city matters, this special initiative procedure shall conform to the requirements of that procedure. If the voters of a county or city do not otherwise possess the general power of initiative on county or city matters,

this special initiative procedure shall conform to the requirements and procedures for initiative petitions provided for code cities in RCW 35A.11.100. [1982 1st ex.s. c 49 § 12.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.46.030 Disposition and distribution of proceeds.

(1) The county treasurer shall place one percent of the proceeds of the taxes imposed under RCW 82.46.010 in the county current expense fund to defray costs of collection.

(2) The remaining proceeds from the county tax under RCW 82.46.010(1) shall be placed in a county capital improvements fund. The remaining proceeds from city or town taxes under RCW 82.46.010(1) shall be distributed to the respective cities and towns monthly and placed by the city treasurer in a municipal capital improvements fund. These capital improvements funds shall be used by the respective jurisdictions for local improvements, including those listed in RCW 35.43.040.

(3) This section does not limit the existing authority of any city, town, or county to impose special assessments on property specially benefited thereby in the manner prescribed by law. [1982 1st ex.s. c 49 § 13.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.46.040 Tax is lien on property—Enforcement.

Any tax imposed under RCW 82.46.010 and any interest or penalties thereon is a specific lien upon each piece of real property sold from the time of sale until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. [1982 1st ex.s. c 49 § 14.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.46.050 Tax is seller's obligation—Choice of remedies.

The taxes levied under RCW 82.46.010 are the obligation of the seller and may be enforced through an action of debt against the seller or in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other. [1982 1st ex.s. c 49 § 15.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.46.060 Payment of tax—Evidence of payment—Recording.

Any taxes imposed under RCW 82.46.010 shall be paid to and collected by the treasurer of the county within which is located the real property which was sold. The treasurer shall act as agent for any city within the county imposing the tax. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed under RCW 82.46.010 shall be evidence of the satisfaction of the lien imposed in RCW

82.46.040 and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the county auditor for filing or recording until the tax is paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the treasurer. [1982 1st ex.s. c 49 § 16.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Title 83 ESTATE TAXATION

Chapters

- 83.01 General provisions.
- 83.04 Property and persons subject to inheritance tax—Lien.
- 83.05 Transfers by power of appointment.
- 83.08 Inheritance tax rates.
- 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.
- 83.20 Legacies, transfers, pension benefits—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.
- 83.40 Adjustments with federal tax.
- 83.44 Payment of inheritance tax—Enforcement—Compromise.
- 83.48 Quieting title against tax liability.
- 83.52 Violations and penalties.
- 83.58 Gift taxes.
- 83.60 Gifts of powers of appointment.
- 83.98 Construction.
- 83.100 Estate and transfer tax reform act.

Chapter 83.01 GENERAL PROVISIONS

Sections

83.01.010 Repealed.

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

Chapter 83.04 PROPERTY AND PERSONS SUBJECT TO INHERITANCE TAX—LIEN

Sections

83.04.010 through 83.04.040 Repealed.
83.04.055 Repealed.

[1982 RCW Supp—page 668]

83.04.080 Repealed.

83.04.010 through 83.04.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

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

Chapter 83.05 TRANSFERS BY POWER OF APPOINTMENT

Sections

83.05.010 through 83.05.090 Repealed.

83.05.010 through 83.05.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.08 INHERITANCE TAX RATES

Sections

83.08.005 through 83.08.018 Repealed.
83.08.025 Repealed.
83.08.035 Repealed.
83.08.045 Repealed.
83.08.050 through 83.08.070 Repealed.

83.08.005 through 83.08.018 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

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

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

83.08.050 through 83.08.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.12 ALIEN ESTATES AND RECIPROCITY WITH OTHER STATES

Sections

83.12.010 through 83.12.030 Repealed.

83.12.010 through 83.12.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.14**SETTLEMENT OF DEATH TAX DISPUTES WITH OTHER STATES**

Sections
83.14.010 through 83.14.070 Repealed.

83.14.010 through 83.14.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.16**VALUATIONS, CREDITS, AND EXEMPTIONS**

Sections
83.16.010 through 83.16.030 Repealed.
83.16.060 through 83.16.145 Repealed.

83.16.010 through 83.16.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

83.16.060 through 83.16.145 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.20**LEGACIES, TRANSFERS, PENSION BENEFITS—EXEMPTIONS**

Sections
83.20.010 Repealed.
83.20.015 Repealed.

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

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

Chapter 83.24**DETERMINATION OF TAX WITHOUT PROBATE**

Sections
83.24.010 Repealed.
83.24.020 Repealed.
83.24.025 Repealed.
83.24.035 Repealed.

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

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

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

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

Chapter 83.28**PROCEDURE TO FIX TAX ON ESTATE**

Sections
83.28.010 through 83.28.070 Repealed.

83.28.010 through 83.28.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.32**PROCEDURE TO FIX TAX ON PROPERTY PREVIOUSLY TRANSFERRED**

Sections
83.32.010 through 83.32.050 Repealed.

83.32.010 through 83.32.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.36**DEPARTMENT OF REVENUE'S POWERS**

Sections
83.36.005 through 83.36.060 Repealed.

83.36.005 through 83.36.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.40**ADJUSTMENTS WITH FEDERAL TAX**

Sections
83.40.010 through 83.40.040 Repealed.

83.40.010 through 83.40.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.44**PAYMENT OF INHERITANCE TAX—ENFORCEMENT—COMPROMISE**

Sections
83.44.010 Repealed.
83.44.025 through 83.44.080 Repealed.
83.44.100 Repealed.
83.44.110 Repealed.

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

83.44.025 through 83.44.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

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

Chapter 83.48

QUIETING TITLE AGAINST TAX LIABILITY

Sections

83.48.010 Repealed.

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

Chapter 83.52

VIOLATIONS AND PENALTIES

Sections

83.52.020 Repealed.

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

Chapter 83.58

GIFT TAXES

Sections

83.58.010 through 83.58.190 Repealed.
83.58.900 Repealed.
83.58.901 Repealed.

83.58.010 through 83.58.190 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

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

Chapter 83.60

GIFTS OF POWERS OF APPOINTMENT

Sections

83.60.010 through 83.60.080 Repealed.

83.60.010 through 83.60.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.98

CONSTRUCTION

Sections

83.98.010 through 83.98.050 Repealed.

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83.98.010 through 83.98.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 83.100

ESTATE AND TRANSFER TAX REFORM ACT

Sections

83.100.010 Short title.
83.100.020 Definitions.
83.100.030 Residents—Tax imposed—Credit for tax paid other state.
83.100.040 Nonresidents—Tax imposed—Exemption.
83.100.050 Tax reports—Date to be filed—Extensions.
83.100.060 Date payment due—Date deemed received.
83.100.070 Interest on amount due—Extension of time to file federal return.
83.100.080 Department to issue release—Final settlement of account.
83.100.090 Amended returns—Final determination.
83.100.100 Administration—Rules.
83.100.110 Sale of property to pay tax—Creation of lien.
83.100.120 Liability for failure to pay tax before distribution or delivery.
83.100.130 Refund for overpayment.
83.100.140 Criminal acts relating to estate tax returns.
83.100.150 Administration by department—Action for collection of tax—Appeal.
83.100.900 Repeals and saving.
83.100.901 Section captions not part of law.
83.100.902 New chapter.
83.100.903 Effective date—1981 2nd ex.s. c 7.

83.100.010 Short title. This chapter may be cited as the "Estate and Transfer Tax Reform Act of 1981." [1981 2nd ex.s. c 7 § 83.100.010 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.020 Definitions. As used in this chapter:

- (1) "Decedent" means a deceased individual;
- (2) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;
- (3) "Federal credit" means the maximum amount of the credit for estate death taxes allowed by section 2011 for the decedent's net estate;
- (4) "Gross estate" means "gross estate" as defined and used in section 2031 of the United States Internal Revenue Code of 1954, as amended or renumbered;
- (5) "Net estate" means "taxable estate" as defined in section 2051 of the United States Internal Revenue Code of 1954, as amended or renumbered;
- (6) "Nonresident" means a decedent who was domiciled outside Washington at his death;
- (7) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;
- (8) "Personal representative" means the executor or administrator of a decedent or, if no executor or administrator is appointed, qualified, and acting, any person who has possession of any property;

(9) "Property" means property included in the gross estate;

(10) "Release" means a release of no tax due or a receipt for payment of the tax due under this chapter;

(11) "Resident" means a decedent who was domiciled in Washington at time of death;

(12) "Section 2011" means section 2011 of the United States Internal Revenue Code of 1954, as amended or renumbered; and

(13) "Transfer" means "transfer" as defined and used in section 2001 of the United States Internal Revenue Code of 1954, as amended or renumbered. [1981 2nd ex.s. c 7 § 83.100.020 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.030 Residents—Tax imposed—Credit for tax paid other state. (1) A tax in an amount equal to the federal credit is imposed on the transfer of the net estate of every resident.

(2) If any property of a resident is subject to a death tax imposed by another state for which a credit is allowed by section 2011, and if the tax imposed by the other state is not qualified by a reciprocal provision allowing the property to be taxed in the state of decedent's domicile, the amount of the tax due under this section shall be credited with the lesser of:

(a) The amount of the death tax paid the other state and credited against the federal estate tax; or

(b) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the death tax imposed by the other state, and the denominator of which is the value of the decedent's gross estate. [1981 2nd ex.s. c 7 § 83.100.030 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.040 Nonresidents—Tax imposed—Exemption. (1) Tax in an amount computed as provided in this section is imposed on the transfer of the net estate located in Washington of every nonresident.

(2) The tax shall be computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in Washington, and the denominator of which is the value of the decedent's gross estate.

(3) The transfer of the property of a nonresident is exempt from the tax imposed by this section to the extent that the property of residents is exempt from taxation under the laws of the state in which the nonresident is domiciled. [1981 2nd ex.s. c 7 § 83.100.040 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.050 Tax reports—Date to be filed—Extensions. (1) The personal representative of every estate subject to the tax imposed by this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the department on or before the date the federal estate tax return is required to be filed, including any extension of time for filing the federal estate tax return:

(a) A report for the taxes due under this chapter; and

(b) A true copy of the federal estate tax return.

(2) If the personal representative has obtained an extension of time for filing the federal return, the filing required by subsection (1) of this section shall be similarly extended until the end of the time period granted in the extension of time for the federal return. A true copy of the extension shall be filed with the department within thirty days of issuance.

(3) No Washington report need be filed if the estate is not subject to the tax imposed by this chapter.

(4) If the estate is not subject to the tax imposed by this chapter, the personal representative may apply to the department for the automatic issuance of a release of nonliability. The release, when issued, shall indicate it has been determined that the estate is not subject to the tax and that the estate and the personal representative are free of any claim by the state for taxes owed under this chapter. [1981 2nd ex.s. c 7 § 83.100.050 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.060 Date payment due—Date deemed received. (1) The taxes imposed by this chapter shall be paid by the personal representative to the department on or before the date the return for the taxes is required to be filed under RCW 83.100.050.

(2) For the purposes of this chapter, a return or payment delivered to the department by United States mail shall be considered to have been received by the department on the date of the United States postmark stamped on the cover in which the payment or the request for release of nonliability is mailed, if the postmark date is within the time allowed for filing the return or making the payment, including any extensions. [1981 2nd ex.s. c 7 § 83.100.060 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.070 Interest on amount due—Extension of time to file federal return. (1) Any tax due under this chapter which is not paid by the time prescribed for the filing of the report as provided in RCW 83.100.050, not including any extensions in respect to the filing of the report or the payment of the tax, shall bear interest at the rate of twelve percent per annum from the date any tax is due until paid.

(2) If the report provided for in RCW 83.100.050 is not filed within the time periods specified, then the personal representative shall pay, in addition to the interest provided in this section, a penalty equal to five percent of the tax due in respect to the transfer for each month beyond the time periods that the report has not been filed, but no penalty so imposed may exceed a total of twenty-five percent of the tax.

(3) If the personal representative has obtained an extension of time for payment of the federal tax, the personal representative may elect to extend the time for payment of the tax due under this chapter in accordance with the extension. The election shall be made by filing a true copy of the extension of time for payment with the report and the returns required under RCW 83.100.050. [1981 2nd ex.s. c 7 § 83.100.070 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.080 Department to issue release—Final settlement of account. (1) The department shall issue an automatic release to the personal representative when:

(a) No taxes imposed by this chapter are due and upon the receipt of a request for a release of nonliability, if the release includes the sworn statement of the personal representative that in fact no taxes are due; or

(b) The taxes due under this chapter have been paid as prescribed in RCW 83.100.050, and the request for a release includes the sworn statement of the personal representative that in fact all taxes due have been paid.

(2) The obtaining of this release shall give to the personal representative sufficient authority to effectuate the transfer of all property composing the decedent's estate. [1981 2nd ex.s. c 7 § 83.100.080 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.090 Amended returns—Final determination. (1) If the personal representative files an amended federal return, the personal representative shall immediately file with the department an amended Washington report with a true copy of the amended federal return. If the personal representative is required to pay an additional tax under this chapter pursuant to the amended return, the personal representative shall pay the additional tax, together with interest as provided in RCW 83.100.070, at the same time the personal representative files the amended return, subject, however, to any extension election under RCW 83.100.070.

(2) Upon final determination of the federal tax due with respect to any transfer, the personal representative shall, within sixty days after the determination, give written notice of it to the department in such form as may be prescribed by rule. If any additional tax is due under this chapter by reason of the determination, the personal representative shall pay the same, together with interest as provided in RCW 83.100.070, at the same time he files the notice, subject, however, to any extension election under RCW 83.100.070. [1981 2nd ex.s. c 7 § 83.100.090 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.100 Administration—Rules. The department shall adopt such rules as may be necessary to carry into effect the provisions of this chapter, including rules relating to the return for taxes due under this chapter. The rules shall have the same force and effect as if specifically set forth in this chapter, unless declared invalid by a judgment of a court of record not appealed from. [1981 2nd ex.s. c 7 § 83.100.100 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.110 Sale of property to pay tax—Creation of lien. (1) A personal representative may sell so much of any property as is necessary to pay the taxes due under this chapter. A personal representative may sell so much of any property specifically bequeathed or devised as is necessary to pay the proportionate amount of the taxes due on the transfer of the property and the fees and expenses of the sale, unless the legatee or devisee

pays the personal representative the proportionate amount of the taxes due.

(2) Unless any tax due is sooner paid in full, it shall be a lien upon the gross estate of the decedent for a period of 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 the lien. Liens created under this subsection shall be qualified as follows:

(a) The limitation period, as described in this subsection, 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 auditor of the county in which the property is located;

(b) Any part of the gross estate which is transferred to a bona fide purchaser shall be divested of the lien and the lien shall be transferred to the proceeds arising out of the transfer; and

(c) 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 the property prior and superior to the tax lien, which tax lien shall attach to the proceeds. [1981 2nd ex.s. c 7 § 83.100.110 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.120 Liability for failure to pay tax before distribution or delivery. (1) Any personal representative who distributes any property without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is personally liable for the taxes due to the extent of the value of any property that may come or may have come into the possession of the personal representative. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property that is or has come into the possession of the personal representative, as of the time the security is furnished.

(2) Any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside Washington without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is liable for the taxes due under this chapter to the extent of the value of the property delivered. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside Washington by such a person.

(3) For the purposes of this section, persons who do not have possession of a decedent's property include anyone not responsible primarily for paying the tax due under this section or their transferees, which includes but is not limited to mortgagees or pledgees, stockbrokers or stock transfer agents, banks and other depositories of checking and savings accounts, safe-deposit companies, and life insurance companies.

(4) For the purposes of this section, any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent may rely upon the release certificate or the release of nonliability certificate, furnished by the department to the personal representative, as evidence of compliance with the requirements of this chapter, and make such deliveries and transfers as the personal representative may direct without being liable for any taxes due under this chapter. [1981 2nd ex.s. c 7 § 83.100.120 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.130 Refund for overpayment. Whenever it is determined that a personal representative has overpaid the tax due under this chapter, the department may refund the amount of the overpayment, together with interest at the then existing statutory rate of interest. No claim for refund may be initiated more than one year after the date the federal tax has been first paid. [1981 2nd ex.s. c 7 § 83.100.130 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.140 Criminal acts relating to estate tax returns. Any person who wilfully fails to file a Washington estate tax return when required by this chapter or who wilfully files a false return commits a gross misdemeanor as defined in chapter [Title] 9A RCW and shall be punished as provided in Title 9A RCW for the perpetration of a gross misdemeanor. [1981 2nd ex.s. c 7 § 83.100.140 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.150 Administration by department—Action for collection of tax—Appeal. (1) The department may collect the tax provided for in this chapter, including applicable interest and penalties, and shall represent this state in all matters pertaining to the same, either before courts or in any other manner. The department, through the attorney general, may institute proceedings for the collection of this tax and any interest and penalties on the tax. The superior court for any county which has assumed lawful jurisdiction over the property of the decedent for general probate or administration purposes under the laws of Washington shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this chapter. If no probate or administration proceedings have been taken out in any court of this state, the superior court for the county in which the decedent was a resident, if the decedent was a domiciliary, or, if the decedent was a non-domiciliary, any court which has sufficient jurisdiction over the property of the decedent, the transfer of which is taxable, to issue probate or administration proceedings thereon, had the same been justified by the legal status of the property or had the same been applied for, shall have jurisdiction. Any such court first acquiring jurisdiction shall retain the same to the exclusion of every other.

(2) Nothing in this chapter denies the right of appellate review as provided by law and the Washington appellate rules. [1981 2nd ex.s. c 7 § 83.100.150 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.900 Repeals and saving. (1) The following chapters and their session law bases are each repealed: Chapters 83.01, 83.04, 83.05, 83.08, 83.12, 83.14, 83.16, 83.20, 83.24, 83.28, 83.32, 83.36, 83.40, 83.44, 83.48, 83.52, 83.58, 83.60, and 83.98 RCW.

(2) These repeals shall not be construed as affecting any existing right acquired under the statutes repealed or under any rule, regulation, or order adopted pursuant thereto; nor as affecting any proceeding instituted thereunder. [1981 2nd ex.s. c 7 § 83.100.160 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.901 Section captions not part of law. As used in this act, section captions constitute no part of the law. [1981 2nd ex.s. c 7 § 83.100.170 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.902 New chapter. Sections 83.100.010 through 83.100.150 of this act shall constitute a new chapter in Title 83 RCW to be designated chapter 83.100 RCW. [1981 2nd ex.s. c 7 § 83.100.180 (Initiative Measure No. 402, approved November 3, 1981).]

83.100.903 Effective date—1981 2nd ex.s. c 7. This act shall take effect January 1, 1982. [1981 2nd ex.s. c 7 § 83.100.190 (Initiative Measure No. 402, approved November 3, 1981).]

Title 84 PROPERTY TAXES

Chapters

- 84.08** General powers and duties of department of revenue.
- 84.33** Timber and forest lands.
- 84.40** Listing of property.
- 84.41** Revaluation of property.
- 84.48** Equalization of assessments.
- 84.52** Levy of taxes.
- 84.55** Limitations upon regular property taxes.

Termination of tax preferences: Chapter 43.136 RCW.

Chapter 84.08 GENERAL POWERS AND DUTIES OF DEPARTMENT OF REVENUE

Sections

- 84.08.060** Additional powers—Power over county boards of equalization—Reconvening—Limitation on increase in property value in appeals to board of tax appeals from county board of equalization.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

84.08.060 Additional powers—Power over county boards of equalization—Reconvening—Limitation on increase in property value in appeals to board of tax appeals from county board of equalization. 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: *Provided further*, That appeals to the board of tax appeals by any taxpayer or taxing unit concerning any action of the county board of equalization shall not raise the valuation of the property to an amount greater than the larger of either the valuation of the property by the county assessor or the valuation of the property assigned by the county board of equalization. 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. [1982 1st ex.s. c 46 § 11; 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.

Chapter 84.33

TIMBER AND FOREST LANDS

Sections

84.33.030	Definitions.
84.33.071	Excise tax on harvesters of timber—Rates—Definitions—Stumpage values—Revised tables—Appeals—State timber tax account A and state timber tax reserve account—Payment of tax.
84.33.073	Definitions.

84.33.030 Definitions. For purposes of this chapter:

(1) "Timber county" means any county within which timber is located.

(2) "Timber" means forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees. [1982 2nd ex.s. c 4 § 1; 1971 ex.s. c 294 § 3.]

Effective date—Applicability—1982 2nd ex.s. c 4: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect August 1, 1982. This 1982 amendatory act shall not be construed to affect timber contracts in effect on the effective date of this 1982 amendatory act." [1982 2nd ex.s. c 4 § 4.] "This act" and "this 1982 amendatory act" consist of the 1982 2nd ex.s. c 4 amendments to RCW 84.33.030, 84.33.071, and 84.33.073.

84.33.071 Excise tax on harvesters of timber—Rates—Definitions—Stumpage values—Revised tables—Appeals—State timber tax account A and state timber tax reserve account—Payment of tax. (1) Upon every person engaging within this state in business as a harvester of timber; as to such persons the amount of tax imposed with respect to such business shall be equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by the appropriate rate as follows:

For timber harvested between October 1, 1974 and June 30, 1983, inclusive, six and one-half percent.

(2) For purposes of this section:

(a) "Harvester" means every person who from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services fells, cuts or takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(b) "Timber" means forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees.

(c) "Stumpage value of timber" means the appropriate stumpage value shown on tables to be prepared by

the department of revenue pursuant to subsection (3) of this section.

(d) Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(3) The department of revenue shall designate areas containing timber having similar growing, harvesting and marketing conditions to be used as units for the preparation and application of stumpage values. Each year on or before December 31 for use the following January through June 30, and on or before June 30 for use the following July through December 31, the department shall prepare tables of stumpage values of each species or subclassification of timber within such units, which values shall be the amount that each such species or subclassification would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Such stumpage values, expressed in terms of a dollar amount per thousand board feet or other unit measure, shall be determined from (a) gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, and in similar quantities, or from (b) gross proceeds from sales of logs adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest, or from a combination of (a) and (b), and shall be determined in a manner which makes reasonable and adequate allowances for age, size, quality, costs of removal, accessibility to point of conversion, market conditions and all other relevant factors. Upon application from any person who plans to harvest damaged timber, the stumpage values for which have been materially reduced from the values shown in the applicable tables due to damage resulting from fire, blow down, ice storm, flood or other sudden unforeseen cause, the department shall revise such tables for any area in which such timber is located and shall specify any additional accounting or other requirements to be complied with in reporting and paying such tax. The preliminary area designations and stumpage value tables and any revisions thereof shall be subject to review by the ways and means committees of the house and senate prior to finalization. Tables of stumpage values shall be signed by the director or his designee and authenticated by the official seal of the department. A copy thereof shall be mailed to anyone who has submitted to the department a written request therefor.

(4) On or before the sixtieth day after the date of final adoption of any stumpage value tables, any harvester may appeal to the board of tax appeals for a revision of stumpage values for an area determined pursuant to subsection (3) of this section.

(5) There are hereby created in the state treasury a state timber tax account A and a state timber tax reserve account in the state general fund and any interest

earned on the investment of cash balances shall be deposited in these accounts. The revenues from the tax imposed by subsection (1) of this section on timber harvested from privately owned land shall be deposited in state timber tax account A and state timber tax reserve account as follows:

<i>Year of Collection</i>	<i>ACCOUNT A</i>	<i>RESERVE ACCOUNT</i>
1973 and thereafter	100%	0%

The revenues from the tax imposed by subsection (1) of this section on timber harvested from publicly owned land shall be deposited in the state general fund.

(6) The tax imposed under this section shall be computed with respect to timber harvested each calendar quarter and shall be due and payable in quarterly installments and remittance therefor shall be made on or before the last day of the month next succeeding the end of the quarterly period in which the tax accrued. The taxpayer on or before such date shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of the tax for which he is liable for the preceding quarterly period, and shall sign and transmit the same to the department of revenue, together with a remittance for such amount.

(7) The taxes imposed by this section shall be in addition to any taxes imposed upon the same persons pursuant to one or more of sections RCW 82.04.230 to 82.04.290, inclusive, and RCW 82.04.440, and none of such sections shall be construed to modify or interact with this section in any way, except RCW 82.04.450 and 82.32.045 shall not apply to the taxes imposed by this section.

(8) Any harvester incurring less than ten dollars tax liability under this section in any calendar quarter shall be excused from the payment of such tax, but may be required by the department of revenue to file a return even though no tax may be due. [1982 2nd ex.s. c 4 § 2; 1981 c 148 § 1; 1979 c 6 § 1; 1977 ex.s. c 347 § 1. Prior: 1975-'76 2nd ex.s. c 123 § 7; 1975-'76 2nd ex.s. c 33 § 1; 1974 ex.s. c 187 § 1; 1972 ex.s. c 148 § 1; 1971 ex.s. c 294 § 7. Formerly RCW 82.04.291.]

Effective date—Applicability—1982 2nd ex.s. c 4: See note following RCW 84.33.030.

Purpose—1981 c 148: "(1) One of the purposes of this act is to establish the values for ad valorem tax purposes of bare forest land which is primarily devoted to and used for growing and harvesting timber without consideration of other potential uses of the land and to provide a procedure for adjusting the values in future years to reflect economic changes which may affect the value established in this act.

(2) Chapter 294, Laws of 1971 ex. sess., as originally enacted, required the department of revenue annually to analyze forest land transactions to ascertain the market value of bare forest land purchased and used exclusively for growing and harvesting timber. Most transactions involving forest land include mature and immature timber with no segregation by the parties between the amounts paid for timber and bare land. The examination of these transactions by the department to ascertain the prices being paid for only the bare land has proven to be very difficult, time consuming, and subject to recurring legal challenge. Samples are small in relation to the total acreage of forest land involved and the administrative time and costs required for the annual analyses are excessive in relation to the changes from year to year which have been observed in the value of bare forest land. This

act eliminates most of these administrative costs by establishing the current bare forest land values and by providing a procedure for periodic adjustment of the values which does not require continuing and costly analysis of the numerous forest land transactions throughout the state." [1981 c 148 § 11.] "This act" consists of the 1981 c 148 amendments to RCW 84.33.071, 84.33.050, 84.33.090, 84.33.110, 84.33.115, 84.33.116, 84.33.120, 84.33.130, 84.33.140, 84.34.060, 82.32-.010, and 1980 c 154 § 14 (uncodified); the repeal of RCW 84.33.111, 84.33.117, and 84.33.150; and this quoted section.

Severability—1981 c 148: "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." [1981 c 148 § 15.]

Effective dates—1981 c 148: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [May 14, 1981], except for section 13 of this act which shall take effect September 1, 1981." [1981 c 148 § 16.] "Section 13 of this act" is an amendment to 1980 c 154 § 14 (uncodified) and is noted following RCW 82.45.010.

Retrospective application of tax rate: "The tax rate provided in RCW 82.04.291 applies retrospectively to January 1, 1979." [1979 c 6 § 6.] RCW 82.04.291 was recodified as RCW 84.33.071 by 1979 c 6 § 1.

Severability—1974 ex.s. c 187: "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 187 § 20.]

84.33.073 Definitions. As used in RCW 84.33.073 and 84.33.074, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Small harvester" means every person who from his own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding five hundred thousand board feet in a calendar quarter and not exceeding one million board feet in a calendar year. It does not include persons performing under contract the necessary labor or mechanical services for a harvester, and it does not include harvesters of forest products classified by the department of revenue as special forest products including Christmas trees, posts, shake boards and bolts, and shingle blocks.

(2) "Timber" means forest trees, standing or down, on privately or publicly owned land.

(3) "Harvesting and marketing costs" means only those costs directly associated with harvesting the timber from the land and delivering it to the buyer and may include the costs of disposing of logging residues but it does not include any other costs which are not directly and exclusively related to harvesting and marketing of the timber such as costs of permanent roads or costs of reforesting the land following harvest. [1982 2nd ex.s. c 4 § 3; 1981 c 146 § 1.]

Effective date—Applicability—1982 2nd ex.s. c 4: See note following RCW 84.33.030.

Effective date—1981 c 146: "This act shall take effect January 1, 1982." [1981 c 146 § 3.]

Severability—1981 c 146: "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." [1981 c 146 § 4.]

Chapter 84.40 LISTING OF PROPERTY

Sections	
84.40.025	Access to property required.
84.40.040	Time and manner of listing.

84.40.025 Access to property required. For the purpose of assessment and valuation of all taxable property in each county, any real or personal property in each county shall be subject to visitation, investigation, examination, discovery, and listing at any reasonable time by the county assessor of the county or by any employee thereof designated for this purpose by the assessor.

In any case of refusal to such access, the assessor shall request assistance from the department of revenue which may invoke the power granted by chapter 84.08 RCW. [1982 1st ex.s. c 46 § 10.]

84.40.040 Time and manner of listing. The assessor shall begin the preliminary work for each assessment not later than the first day of December of each year in all counties in the state. He shall also complete the duties of listing and placing valuations on all property by May 31st of each year, except that the listing and valuation of construction under RCW 36.21.040 through 36.21.080 shall be completed by August 31st of each year, and in the following manner, to wit:

He shall actually determine as nearly as practicable the true and fair value of each tract or lot of land listed for taxation and of each improvement located thereon and shall enter one hundred percent of the value of such land and of the total value of such improvements, together with the total of such one hundred percent valuations, opposite each description of property on his assessment list and tax roll.

He shall make an alphabetical list of the names of all persons in his county liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the standard form prescribed by the department of revenue, which statement and list shall include, if required by the form, the year of acquisition and total original cost of personal property in each category of the prescribed form, and shall be signed and verified under penalty of perjury by the person listing the property. Such list and statement shall be filed on or before the last day of March, but the assessor, upon written request filed on or before such date and for good cause shown therein, shall allow a reasonable extension of time for filing. The assessor shall on or before the 1st day of January of each year mail a notice to all such persons at their last known address that such statement and list is required, such notice to be accompanied by the form on which the statement or list is to be made: *Provided*, That the notice mailed by the assessor to each taxpayer each year shall, if practicable, include the statement and list of personal property of the taxpayer for the preceding year. Upon receipt of such statement and list the assessor shall thereupon determine the true and fair value of the property included in such statement and enter one hundred

percent of the same in the assessment books opposite the name of the party assessed; and in making such entry in his assessment list, he shall give the name and post office address of the party listing the property, and if the party resides in a city the assessor shall give the street and number or other brief description of his residence or place of business. The assessor may, after giving written notice of his action to the person to be assessed, add to the assessment list any taxable property which, in his judgment, should be included in such list. [1982 1st ex.s. c 46 § 5; 1973 1st ex.s. c 195 § 97; 1967 ex.s. c 149 § 36; 1961 c 15 § 84.40.040. Prior: 1939 c 206 § 16, part; 1925 ex.s. c 130 § 57, part; 1897 c 71 § 46, part; 1895 c 176 § 5, part; 1893 c 124 § 48, part; 1891 c 140 § 48, part; RRS § 11140, part.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Effective date—1967 ex.s. c 149: See note following RCW 82.04.050.

Savings—1967 ex.s. c 149: See RCW 82.98.035.

Severability—1967 ex.s. c 149: See note following RCW 82.98.030.

Chapter 84.41

REVALUATION OF PROPERTY

Sections

- 84.41.030 Revaluation program to be on continuous basis—Revaluation schedule.
- 84.41.041 Physical inspection and valuation of taxable property required—Adjustments during intervals based on statistical data.
- 84.41.090 Department to establish statistical methods—Publication of rules, regulations, and guides—Compliance required.

84.41.030 Revaluation program to be on continuous basis—Revaluation schedule. Each county assessor shall maintain an active and systematic program of revaluation on a continuous basis, and shall establish a revaluation schedule which will result in revaluation of all taxable real property within the county at least once each four years and physical inspection of all taxable real property within the county at least once each six years. [1982 1st ex.s. c 46 § 1; 1971 ex.s. c 288 § 6; 1961 c 15 § 84.41.030. Prior: 1955 c 251 § 3.]

Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

84.41.041 Physical inspection and valuation of taxable property required—Adjustments during intervals based on statistical data. Each county assessor shall cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan shall provide that a reasonable portion of all taxable real property within a county shall be revalued and these newly-determined values placed on the assessment rolls each year. If the revaluation plan provides for physical inspection at least once each four

years, during the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years, during the intervals between each physical inspection of real property, the valuation of such property shall be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.

The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property. [1982 1st ex.s. c 46 § 2; 1979 ex.s. c 214 § 9; 1974 ex.s. c 131 § 2.]

84.41.090 Department to establish statistical methods—Publication of rules, regulations, and guides—Compliance required. The department of revenue shall by rule establish appropriate statistical methods for use by assessors in adjusting the valuation of property between physical inspections. The department of revenue shall make and publish such additional 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. [1982 1st ex.s. c 46 § 3; 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.

Chapter 84.48

EQUALIZATION OF ASSESSMENTS

Sections

- 84.48.075 County indicated ratio—Determination by department—Submission of preliminary ratio to assessor—Rules—Use classes—Review of preliminary ratio—Certification—Examination of assessment procedures—Adjustment of ratio.
- 84.48.080 Equalization of assessments—Taxes for state purposes—Procedure—Levy and apportionment—Record.

84.48.075 County indicated ratio—Determination by department—Submission of preliminary ratio to assessor—Rules—Use classes—Review of preliminary ratio—Certification—Examination of assessment procedures—Adjustment of ratio. (1) The department of revenue shall annually, prior to the first Monday in August, determine and submit to each assessor a preliminary indicated ratio for each county: *Provided*, That the department shall establish rules and

regulations pertinent to the determination of the indicated ratio, the indicated real property ratio and the indicated personal property ratio: *Provided further*, That these rules and regulations may provide that data, as is necessary for said determination, which is available from the county assessor of any county and which has been audited as to its validity by the department, shall be utilized by the department in determining the indicated ratio.

(2) To such extent as is reasonable, the department may define use classes of property for the purposes of determination of the indicated ratio. Such use classes may be defined with respect to property use and may include agricultural, open space, timber and forest lands.

(3) The department shall review each county's preliminary ratio with the assessor, a landowner, or an owner of an intercounty public utility or private car company of that county, if requested by the assessor, a landowner, or an owner of an intercounty public utility or private car company of that county, respectively, between the first and third Mondays of August. Prior to equalization of assessments pursuant to RCW 84.48.080 and after the third Monday of August, the department shall certify to each county assessor the real and personal property ratio for that county.

(4) The department of revenue shall also examine procedures used by the assessor to assess real and personal property in the county, including calculations, use of prescribed value schedules, and efforts to locate all taxable property in the county. If any examination by the department discloses other than market value is being listed on the county assessment rolls of the county by the assessor and, after due notification by the department, is not corrected, the department of revenue shall, in accordance with rules adopted by the department, adjust the ratio of that type of property, which adjustment shall be used for determining the county's indicated ratio. [1982 1st ex.s. c 46 § 7; 1977 ex.s. c 284 § 3.]

Purpose—Intent—1977 ex.s. c 284: "It is the intent of the legislature that the methodology used in the equalization of property values for the purposes of the state levy, public utility assessment, and other purposes, shall be designed to ensure uniformity and equity in taxation throughout the state to the maximum extent possible.

It is the purpose of this 1977 amendatory act to provide certain guidelines for the determination of the ratio of assessed value to the full true and fair value of the general property in each county." [1977 ex.s. c 284 § 1.] "This 1977 amendatory act" consists of the enactment of RCW 84.48.075 and this quoted section and of the 1977 ex.s. c 284 amendment to RCW 82.03.130.

84.48.080 Equalization of assessments—Taxes for state purposes—Procedure—Levy and apportionment—Record. Annually during the month of August, the department of revenue shall examine and compare the returns of the assessment of the property in the several counties of the state, and the assessment of the property of railroad and other companies assessed by the department, and proceed to equalize the same, so that each county in the state shall pay its due and just proportion of the taxes for state purposes for such assessment year, according to the ratio the valuation of the property in each county bears to the total valuation of all property in the state.

[1982 RCW Supp—page 678]

First. The department shall classify all property, real and personal, and shall raise and lower the valuation of any class of property in any county to a value that shall be equal, so far as possible, to the true and fair value of such class as of January 1st of the current year for the purpose of ascertaining the just amount of tax due from each county for state purposes. Such classification may be on the basis of types of property, geographical areas, or both.

Second. The department shall keep a full record of its proceedings and the same shall be published annually by the department.

The department shall levy the state taxes authorized by law: *Provided*, That the amount levied in any one year for general state purposes shall not exceed the lawful dollar rate on the dollar of the assessed value of the property of the entire state, which assessed value shall be one hundred percent of the true and fair value of such property in money. The department shall apportion the amount of tax for state purposes levied by the department, among the several counties, in proportion to the valuation of the taxable property of the county for the year as equalized by the department: *Provided*, That for purposes of this apportionment, the department shall recompute the previous year's levy and the apportionment thereof to correct for changes and errors in taxable values reported to the department after October 1 of the preceding year and shall adjust the apportioned amount of the current year's state levy for each county by the difference between the apportioned amounts established by the original and revised levy computations for the previous year. For purposes of this section, changes in taxable values mean a final adjustment made by a county board of equalization, the state board of tax appeals, or a court of competent jurisdiction and shall include additions of omitted property, other additions or deletions from the assessment or tax rolls, or a change in the indicated ratio of a county. Errors in taxable values mean errors corrected by a final reviewing body.

The department shall have authority to adopt rules and regulations to enforce obedience to its orders in all matters in relation to the returns of county assessments, the equalization of values, and the apportionment of the state levy by the department.

After the completion of the duties hereinabove prescribed, the director of the department shall certify the record of the proceedings of the department under this section, the tax levies made for state purposes and the apportionment thereof among the counties, and the certification shall be available for public inspection. [1982 1st ex.s. c 28 § 1; 1979 ex.s. c 86 § 3; 1973 1st ex.s. c 195 § 99; 1971 ex.s. c 288 § 9; 1961 c 15 § 84.48.080. Prior: 1949 c 66 § 1; 1939 c 206 § 36; 1925 ex.s. c 130 § 70; Rem. Supp. 1949 § 11222; prior: 1917 c 55 § 1; 1915 c 7 § 1; 1907 c 215 § 1; 1899 c 141 § 4; 1897 c 71 § 60; 1893 c 124 § 61; 1890 p 557 § 75. Formerly RCW 84.48.080, 84.48.090 and 84.48.100.]

Severability—1982 1st ex.s. c 28: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 28 § 3.]

Severability—1979 ex.s. c 86: See note following RCW 13.24.040.
Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.
Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

Chapter 84.52 LEVY OF TAXES

Sections

84.52.052	Excess levies authorized—When—Procedure (as amended by 1982 c 123).
84.52.052	Excess levies authorized—When—Procedure (as amended by 1982 c 175).
84.52.052	Excess levies authorized—When—Procedure (as amended by 1982 1st ex.s. c 22).
84.52.713	Island library district levy authorized.
84.52.750	Solid waste disposal district—Excess levies authorized.
84.52.786	Cultural arts, stadium and convention district tax levies authorized.

84.52.052 Excess levies authorized—When—Procedure (as amended by 1982 c 123). The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by any taxing district except school districts in which a larger levy is necessary in order to prevent the impairment of the obligation of contracts. Any county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, public hospital district, road district, rural county library district, island library district, intercounty rural library district, fire protection district, cemetery district, city, or town may levy taxes at a rate in excess of the rate specified in RCW 84.52.050 through 84.52.056 and RCW 84.52.043, or RCW 84.55.010 through 84.55.050, when authorized so to do by the electors of such county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, public hospital district, road district, rural county library district, island library district, intercounty rural library district, fire protection district, cemetery district, city, or town in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 64 and as thereafter amended, at a special or general election to be held in the year in which the levy is made.

A special election may be called and the time therefor fixed by the county legislative authority, or council, board of commissioners, or other governing body of any metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, public hospital district, road district, rural county library district, island library district, intercounty rural library district, fire protection district, cemetery district, city or town, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no". [1982 c 123 § 19; 1981 c 210 § 20; 1977 ex.s. c 325 § 1; 1977 c 4 § 1; 1973 1st ex.s. c 195 § 102; 1973 1st ex.s. c 195 § 147; 1973 c 3 § 1; 1971 ex.s. c 288 § 26; 1965 ex.s. c 113 § 1; 1963 c 112 § 1; 1961 c 15 § 84.52.052. Prior: 1959 c 304 § 8; 1959 c 290 § 1; 1957 c 58 § 15; 1957 c 32 § 1; 1955 c 93 § 1; 1953 c 189 § 1; 1951 2nd ex.s. c 23 § 3; prior: 1951 c 255 § 1, part; 1950 ex.s. c 11 § 1, part; 1945 c 253 § 1, part; 1941 c 176 § 1, part; 1939 c 83 § 1, part; 1939 c 2 (Init. Meas. No. 129); 1937 c 1 (Init. Meas. No. 114); 1935 c 2 (Init. Meas. No. 94); 1933 c 4 (Init. Meas. No. 64); Rem. Supp. 1945 § 11238—1e, part.]

84.52.052 Excess levies authorized—When—Procedure (as amended by 1982 c 175). The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by any taxing district except school districts in which a larger levy is necessary in order to prevent the impairment of the obligation of contracts. Any county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, solid waste disposal district, public hospital district, road

district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city, or town may levy taxes at a rate in excess of the rate specified in RCW 84.52.050 through 84.52.056 and RCW 84.52.043, or RCW 84.55.010 through 84.55.050, when authorized so to do by the electors of such county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, solid waste disposal district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city, or town in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 64 and as thereafter amended, at a special or general election to be held in the year in which the levy is made.

A special election may be called and the time therefor fixed by the county legislative authority, or council, board of commissioners, or other governing body of any metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, solid waste disposal district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city or town, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no". [1982 c 175 § 7; 1981 c 210 § 20; 1977 ex.s. c 325 § 1; 1977 c 4 § 1; 1973 1st ex.s. c 195 § 102; 1973 1st ex.s. c 195 § 147; 1973 c 3 § 1; 1971 ex.s. c 288 § 26; 1965 ex.s. c 113 § 1; 1963 c 112 § 1; 1961 c 15 § 84.52.052. Prior: 1959 c 304 § 8; 1959 c 290 § 1; 1957 c 58 § 15; 1957 c 32 § 1; 1955 c 93 § 1; 1953 c 189 § 1; 1951 2nd ex.s. c 23 § 3; prior: 1951 c 255 § 1, part; 1950 ex.s. c 11 § 1, part; 1945 c 253 § 1, part; 1941 c 176 § 1, part; 1939 c 83 § 1, part; 1939 c 2 (Init. Meas. No. 129); 1937 c 1 (Init. Meas. No. 114); 1935 c 2 (Init. Meas. No. 94); 1933 c 4 (Init. Meas. No. 64); Rem. Supp. 1945 § 11238—1e, part.]

Severability—1982 c 175: See note following RCW 36.58.100.

84.52.052 Excess levies authorized—When—Procedure (as amended by 1982 1st ex.s. c 22). The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW 84.52.043 shall not prevent the levy of additional taxes by any taxing district except school districts in which a larger levy is necessary in order to prevent the impairment of the obligation of contracts. Any county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city, or town may levy taxes at a rate in excess of the rate specified in RCW 84.52.050 through 84.52.056 and RCW 84.52.043, or RCW 84.55.010 through 84.55.050, when authorized so to do by the electors of such county, metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city, town, or cultural arts, stadium and convention district in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 64 and as thereafter amended, at a special or general election to be held in the year in which the levy is made.

A special election may be called and the time therefor fixed by the county legislative authority, or council, board of commissioners, or other governing body of any metropolitan park district, park and recreation service area, park and recreation district, sewer district, water district, public hospital district, road district, rural county library district, intercounty rural library district, fire protection district, cemetery district, city, town, or cultural arts, stadium and convention district, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no". [1982 1st ex.s. c 22 § 17; 1981 c 210 § 20; 1977 ex.s. c 325 § 1; 1977 c 4 § 1; 1973 1st ex.s. c 195 § 102; 1973 1st ex.s. c 195 § 147; 1973 c 3 § 1; 1971 ex.s. c 288 § 26; 1965 ex.s. c 113 § 1; 1963 c 112 § 1; 1961 c 15 § 84.52.052. Prior: 1959 c 304 § 8; 1959 c 290 § 1; 1957 c 58 § 15; 1957 c 32 § 1; 1955 c 93 § 1; 1953 c 189 § 1; 1951 2nd ex.s. c 23 § 3; prior: 1951 c 255 § 1, part; 1950 ex.s. c 11 § 1, part; 1945 c 253 § 1, part; 1941 c 176 § 1, part; 1939 c 83 § 1, part; 1939 c 2 (Init. Meas. No. 129); 1937 c 1 (Init. Meas. No.

114); 1935 c 2 (Init. Meas. No. 94); 1933 c 4 (Init. Meas. No. 64); Rem. Supp. 1945 § 11238-1e, part.]

Reviser's note: RCW 84.52.052 was amended three times during the 1982 legislative sessions, each without reference to the other.

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

Severability—1982 1st ex.s. c 22: See RCW 67.38.905.

Severability—1981 c 210: See note following RCW 36.68.400.

Severability—1977 ex.s. c 325: "If any provision of this 1977 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." [1977 ex.s. c 325 § 5.]

Effective date—1977 ex.s. c 325: "This 1977 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, 1977." [1977 ex.s. c 325 § 6.]

Severability—1977 c 4: "If any provision of this 1977 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." [1977 c 4 § 4.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

84.52.713 Island library district levy authorized. See RCW 27.12.420 and 27.12.222.

84.52.750 Solid waste disposal district—Excess levies authorized. See RCW 36.58.150.

84.52.786 Cultural arts, stadium and convention district tax levies authorized. See RCW 67.38.110 and 67.38.130.

Chapter 84.55

LIMITATIONS UPON REGULAR PROPERTY TAXES

Sections

84.55.045	Applicability of chapter to levy by port district for industrial development district purposes.
84.55.070	Inapplicability of chapter to levies for certain purposes.
84.55.080	Adjustment to tax limitation.

84.55.045 Applicability of chapter to levy by port district for industrial development district purposes. For purposes of applying the provisions of this chapter:

(1) A levy by or for a port district pursuant to RCW 53.36.100 shall be treated in the same manner as a separate regular property tax levy made by or for a separate taxing district; and

(2) The first levy by or for a port district pursuant to RCW 53.36.100 after April 1, 1982, shall not be subject to RCW 84.55.010. [1982 1st ex.s. c 3 § 2.]

Effective date—1982 1st ex.s. c 3: See note following RCW 53.36.100.

84.55.070 Inapplicability of chapter to levies for certain purposes. The provisions of this chapter shall not apply to a levy, including the state levy, or that portion

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of a levy, made by or for a taxing district for the purpose of funding a property tax refund paid or to be paid pursuant to the provisions of chapters 84.68 RCW or attributable to a property tax refund paid or to be paid pursuant to the provisions of chapter 84.69 RCW, attributable to amounts of state taxes withheld under RCW 84.56.290 or the provisions of chapter 84.69 RCW, or otherwise attributable to state taxes lawfully owing by reason of adjustments made under RCW 84.48.080. [1982 1st ex.s. c 28 § 2; 1981 c 228 § 3.]

Severability—1982 1st ex.s. c 28: See note following RCW 84.48.080.

84.55.080 Adjustment to tax limitation. Pursuant to chapter 39.88 RCW, any increase in the assessed value of real property within an apportionment district resulting from new construction, improvements to property, or any increase in the assessed value of state-assessed property shall not be included in the increase in assessed value resulting from new construction, improvements, or any increase in the assessed value of state-assessed property for purposes of calculating any limitations upon regular property taxes under this chapter until the termination of apportionment as set forth in RCW 39.88.070(4), as now or hereafter amended, except to the extent a taxing district actually will receive the taxes levied upon this value. Tax allocation revenues, as defined in RCW 39.88.020, as now or hereafter amended, shall not be deemed to be "regular property taxes" for purposes of this chapter. [1982 1st ex.s. c 42 § 12.]

Captions not part of law—Severability—1982 1st ex.s. c 42: See RCW 39.88.910 and 39.88.915.

Title 86

FLOOD CONTROL

Chapters

- 86.09 Flood control districts—1937 act.**
86.16 Flood control zones by state.

*Facilitating recovery from Mt. St. Helens eruption
 scope of local government action: RCW 36.01.150.
 scope of state agency action: RCW 43.01.210.*

*Public bodies may retain collection agencies to collect public debts:
 RCW 19.16.500.*

Chapter 86.09

FLOOD CONTROL DISTRICTS—1937 ACT

Sections

86.09.184	Emergency contracts without bids—Director's approval.
86.09.187	Improvements by force account.
86.09.331	Elections—Annual elections, date.
86.09.358	Elections—Officials—Polling hours—Form of ballots.
86.09.361	Elections—Ballots—Counting votes.
86.09.367	Elections—Certification of returns.
86.09.370	Elections—Returns to be sealed and delivered—Copy to be available to interested persons.

86.09.184 Emergency contracts without bids—Director's approval. Districts shall have authority to enter into contracts for the construction of any improvement authorized by law, or for labor or materials entering therein, without public bidding, with the written approval and consent of the state director in instances of genuine emergency to be declared by said director or in any instance where the contract price does not exceed two thousand five hundred dollars. [1982 c 104 § 10; 1937 c 72 § 62; RRS § 9663E-62. Formerly RCW 86.08.290, part.]

86.09.187 Improvements by force account. Any proposed improvement or part thereof, not exceeding two thousand five hundred dollars in cost may be constructed by the district by force account. [1982 c 104 § 4; 1965 c 26 § 4; 1937 c 72 § 63; RRS § 9663E-63. Formerly RCW 86.08.290, part.]

Construction by force account after readvertisement for bids: RCW 86.09.178.

86.09.331 Elections—Annual elections, date. An annual election shall be held for the district on the first Tuesday after the first Monday in February of each year for the election of a director or directors as the case may be and to determine any proposition that may be legally submitted to the electors. [1982 c 104 § 5; 1937 c 72 § 111; RRS § 9663E-111. Formerly RCW 86.08.120, part.]

Elections generally: Title 29 RCW.

Times for holding elections: Chapter 29.13 RCW.

86.09.358 Elections—Officials—Polling hours—Form of ballots. The officers of election for each precinct shall consist of the inspector and two judges. These officers shall be known as the election board.

The inspector is chairman of the election board, and may:

First, administer all oaths required in the progress of an election.

Second, appoint judges, if, during the progress of the election, any judge ceases to act. Any member of the board of election may administer and certify oaths required to be administered during the progress of an election. Before opening the polls, each member of the board must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened at one o'clock p.m. on the day of the election, and be kept open until eight p.m., when the same must be closed. The provisions of the general election law of this state, concerning the form of ballots to be used shall not apply to elections held under this chapter. [1982 c 104 § 6; 1937 c 72 § 120; RRS § 9663E-120. Formerly RCW 86.08.135.]

Election dates and hours generally: Chapter 29.13 RCW.

Precinct election officers generally: Chapter 29.45 RCW.

86.09.361 Elections—Ballots—Counting votes. All district elections shall be by ballot, and in case of

election of officials, the ballots shall designate the term for which the person voted for is a candidate.

Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened. As soon as the polls are closed, the judges shall open the ballot box and commence counting the votes; and in no case shall the ballot box be removed from the room in which the election is held until all the ballots have been counted. The counting of ballots shall in all cases be public. The ballots shall be taken out, one by one, by the inspector or one of the judges, who shall open them and read aloud the names of each person contained therein, and the office for which every such person is voted for, or the proposition and the vote thereon. The inspector or one of the judges shall write down each office to be filled, and the name of each person voted for such office, or the proposition voted on and shall keep the number of votes by tallies, as they are read aloud by the inspector or the other judge. The counting of votes shall be continued without adjournment until all have been counted. [1982 c 104 § 7; 1937 c 72 § 121; RRS § 9663E-121. Formerly RCW 86.08.140.]

Polling place regulations, counting: Chapters 29.51, 29.54 RCW.

86.09.367 Elections—Certification of returns. As soon as all the votes are read off and counted, a certificate shall be drawn upon each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each person or proposition voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the judges and the inspector. One of said certificates, with the poll list and the tally paper, to which it is attached, shall be sent to the director of the department of ecology and a copy shall be retained by the inspector: *Provided*, That in the case of elections to establish the district or to authorize the issuance of bonds, the inspector shall deliver said returns at the expiration of said period to the secretary to be permanently kept with the records of the district. [1982 c 104 § 8; 1937 c 72 § 123; RRS § 9663E-123. Formerly RCW 86.08.145.]

86.09.370 Elections—Returns to be sealed and delivered—Copy to be available to interested persons. The ballots shall be entered upon the tally lists by a member of the election board. The ballots, together with the other of said certificates, with the poll list and tally paper, shall be sealed by the inspector in the presence of the judges and endorsed "Election returns of (naming the precinct) precinct", and be sent to the director of the department of ecology. A copy of these materials shall be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier, designated by said inspector, to said secretary to be made available to interested persons. [1982 c 104 § 9; 1937 c 72 § 124; RRS § 9663E-124. Formerly RCW 86.08.150, part.]

Canvassing returns generally: Chapter 29.62 RCW.

Counting ballots generally: Chapter 29.54 RCW.

Recount proceedings generally: Chapter 29.64 RCW.

Chapter 86.16

FLOOD CONTROL ZONES BY STATE

Sections

86.16.020 Regulatory control, how exercised.

86.16.020 Regulatory control, how exercised. State regulatory control shall be exercised through regulatory orders, the designation of flood control zones and the issuance of permits, as hereinafter provided, and shall be exercised over the planning, construction, operation and maintenance of any works, structures and improvements, private or public, which might, if improperly planned, constructed, operated and maintained, adversely influence the regimen of a stream or body of water or might adversely affect the security of life, health and property against damage by flood water. [1935 c 159 § 3; RRS § 9663A-3. FORMER PART OF SECTION: 1939 c 85 § 1 now codified as RCW 86.16.025 and 86.16.027.]

Reviser's note: This section was accidentally omitted from the 1981 edition of the Revised Code of Washington.

Title 87 IRRIGATION

Chapters

87.03 Irrigation districts generally.

Public bodies may retain collection agencies to collect public debts: RCW 19.16.500.

Chapter 87.03

IRRIGATION DISTRICTS GENERALLY

Sections

87.03.017 District may assist residential owners in financing for conservation of energy—When—Plan—Limitations.

87.03.270 Assessments, when delinquent—Assessment book, purpose—Statement of assessments due—Collection—Additional fee for delinquency.

87.03.272 Secretary may act as collection agent of nondelinquent assessments—Official bond—Collection procedure—Delinquency list.

87.03.017 District may assist residential owners in financing for conservation of energy—When—Plan—Limitations. Any irrigation district engaged in the distribution of energy is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of residential structures in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures pursuant to an energy conservation plan adopted by the irrigation district if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy

produced by the next least costly new energy resource which the irrigation district could acquire to meet future demand. Except where otherwise authorized, such assistance shall be limited to:

(1) Providing an inspection of the residential structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of such materials or equipment.

(2) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the irrigation district, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standards.

(3) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation.

(4) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner.

(5) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length. [1982 c 42 § 1. Prior: 1981 c 345 § 3.]

87.03.270 Assessments, when delinquent—Assessment book, purpose—Statement of assessments due—Collection—Additional fee for delinquency. The assessment roll, before its equalization and adoption, shall be checked and compared as to descriptions and ownerships, with the county treasurer's land rolls. On or before the fifteenth day of January in each year the secretary must deliver the assessment roll or the respective segregation thereof to the county treasurer of each respective county in which the lands therein described are located, and said assessments shall become due and payable on the fifteenth day of February following.

All assessments on said roll shall become delinquent on the first day of May following the filing of the roll unless the assessments are paid on or before the thirtieth day of April of said year: *Provided*, That if an assessment is ten dollars or more for said year and if one-half of the assessment is paid on or before the thirtieth day of April, the remainder shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date. All delinquent assessments shall bear interest at the rate of twelve percent per annum computed on a monthly basis from the date of delinquency until paid.

Upon receiving the assessment roll the county treasurer shall prepare therefrom an assessment book in

which shall be written the description of the land as it appears in the assessment roll, the name of the owner or owners where known, and if assessed to the unknown owners, then the word "unknown", and the total assessment levied against each tract of land. Proper space shall be left in said book for the entry therein of all subsequent proceedings relating to the payment and collection of said assessments.

On or before April 1st of each year, the treasurer of the district shall send a statement of assessments due. County treasurers who collect irrigation district assessments may send the statement of irrigation district assessments together with the statement of general taxes.

Upon payment of any assessment the county treasurer must enter the date of said payment in said assessment book opposite the description of the land and the name of the person paying and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed.

It shall be the duty of the treasurer of the district to furnish upon request of the owner, or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his office upon land described in such request. All statements of irrigation district assessments covering any land in the district shall show the amount of the irrigation district assessment, the dates on which the assessment is due, the place of payment, and, if the property was sold for delinquent assessments in a prior year, the amount of the delinquent assessment and the notation "certificate issued": *Provided*, That the failure of the treasurer to render any statement herein required of him shall not render invalid any assessments made by any irrigation district.

It shall be the duty of the county treasurer of any county, other than the county in which the office of the board of directors is located, to make monthly remittances to the county treasurer of the county in which the office of the board of directors is located covering all amounts collected by him for the irrigation district during the preceding month.

When the treasurer collects a delinquent assessment, in addition to any other amounts due by reason of the delinquency, he shall collect an additional sum of ten dollars, which shall be deposited to the treasurer's operation and maintenance fund. [1982 c 102 § 1; 1981 c 209 § 1; 1967 c 169 § 2; 1939 c 171 § 3; 1933 c 43 § 4; 1931 c 60 § 2; 1929 c 181 § 1; 1921 c 129 § 16; 1919 c 180 § 12; 1917 c 162 § 5; 1915 c 179 § 14; 1913 c 165 § 12; 1913 c 13 § 2; 1895 c 165 § 12; 1889-90 p 684 § 24; RRS § 7442. Formerly RCW 87.32.050.]

Effective date—1982 c 102: "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 April 15, 1982." [1982 c 102 § 3.]

Effective date—1981 c 209: See note following RCW 87.03.215.

Construction—1913 c 165: See RCW 87.03.900.

Assessments, districts under contract with United States: Chapter 87-.68 RCW.

Assessments, how and when made—Assessment roll: RCW 87.03.240.

Equalization of assessments: RCW 87.03.255.

Evidence of assessment, what is: RCW 87.03.420.

87.03.272 Secretary may act as collection agent of nondelinquent assessments—Official bond—Collection procedure—Delinquency list. Notwithstanding the provisions of RCW 87.03.260, 87.03.270, 87.03.440 and 87.03.445 the board of directors of any district acting as fiscal agent for the United States or the state of Washington for the collection of any irrigation charges may authorize the secretary of the district to act as the exclusive collection agent for the collection of all nondelinquent irrigation assessments of the district pursuant to such rules and regulations as the board of directors may adopt.

When the secretary acts as collection agent, his official bond shall be of a sufficient amount as determined by the board of directors of the district to cover any amounts he may be handling while acting as collection agent, in addition to any other amount required by reason of his other duties.

The assessment roll of such district shall be delivered to the county treasurer in accordance with the provisions of RCW 87.03.260 and 87.03.270 and the assessment roll shall be checked and verified by the county treasurer as provided in RCW 87.03.270.

After the assessment roll has been checked and verified by the county treasurer, the secretary of the district shall proceed to publish the notice as required under RCW 87.03.270; except that the notice shall provide that until the assessments and tolls become delinquent on November 1st they shall be due and payable in the office of the secretary of the district.

When the secretary of such district receives payments, he shall issue a receipt for such payments and shall be accountable on his official bond for the safekeeping of such funds and shall remit the same, along with an itemized statement of receipts, at least once each month to the county treasurer wherein the land is located on which the payment was made.

When the county treasurer receives the monthly statement of receipts from the secretary, he shall enter the payments shown thereon on the assessment roll maintained in his office.

On the fifteenth day of November of each year it shall be the duty of the secretary to transmit to the county treasurer the delinquency list which shall include the names, amounts and such other information as the county treasurer shall require, and thereafter the secretary shall not accept any payment on the delinquent portion of any account. Upon receipt of the list of delinquencies, the county treasurer shall proceed under the provisions of this chapter as though he were the collection agent for such district to the extent of such delinquent accounts. [1982 c 102 § 2; 1967 c 169 § 3.]

Effective date—1982 c 102: See note following RCW 87.03.270.

Title 89

RECLAMATION, SOIL CONSERVATION AND LAND SETTLEMENT

Chapters

89.16 Reclamation by state.

*Facilitating recovery from Mt. St. Helens eruption
scope of local government action: RCW 36.01.150.
scope of state agency action: RCW 43.01.210.*

*Public bodies may retain collection agencies to collect public debts:
RCW 19.16.500.*

Chapter 89.16

RECLAMATION BY STATE

Sections

89.16.500 Exemption from diking and drainage requirements of emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section.

89.16.500 Exemption from diking and drainage requirements of emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section. Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210 may be exempted by the applicable county legislative authority from the requirements related to diking and drainage under the department of ecology, for operations within such county: *Provided*, That the applicable legislative authority shall promptly notify the department of ecology of the emergency action taken and the emergent nature of the problem.

This section shall expire on June 30, 1984. [1982 c 7 § 6.]

Severability—1982 c 7: See note following RCW 36.01.150.

Title 90

WATER RIGHTS—ENVIRONMENT

Chapters

90.03 Water code—1917 act.

90.58 Shoreline management act of 1971.

90.62 Environmental coordination procedures act.

Chapter 90.03

WATER CODE—1917 ACT

Sections

90.03.180 Determination of water rights—Statement by defendants—Filing fee.

90.03.243 Determination of water rights—State to bear its expenses incurred in and on appeal.

90.03.180 Determination of water rights—Statement by defendants—Filing fee. At the time of filing the statement as provided in RCW 90.03.140, each defendant shall pay to the clerk of the superior court a fee

of twenty-five dollars. [1982 c 15 § 2; 1979 ex.s. c 216 § 3; 1929 c 122 § 3; 1919 c 71 § 2; 1917 c 117 § 21; RRS § 7371. Formerly RCW 90.12.080, part.]

Appropriations—Effective date—Severability—1979 ex.s. c 216: See notes following RCW 90.03.245.

90.03.243 Determination of water rights—State to bear its expenses incurred in and on appeal. The expenses incurred by the state in a proceeding to determine rights to water initiated under RCW 90.03.110 or 90.44.220 or upon appeal of such a determination shall be borne by the state. [1982 c 15 § 1.]

Chapter 90.58

SHORELINE MANAGEMENT ACT OF 1971

Sections

90.58.020 Legislative findings—State policy enunciated—Use preference.

90.58.030 Definitions and concepts.

90.58.500 Exemption from this chapter for emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section.

90.58.020 Legislative findings—State policy enunciated—Use preference. The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of state-wide significance. The department, in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state-wide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the state-wide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and wetlands of the state shall be recognized by the department. Shorelines and wetlands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and wetlands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. [1982 1st ex.s. c 13 § 1; 1971 ex.s. c 286 § 2.]

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, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: *Provided*, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

- (c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of state-wide significance" within the state;

- (d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated 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;

(xi) Any action commenced prior to December 31, 1982, pertaining to (A) the restoration of interim transportation services as may be necessary as a consequence of the destruction of the Hood Canal bridge, including, but not limited to, improvements to highways, development of park and ride facilities, and development of ferry terminal facilities until a new or reconstructed Hood Canal bridge is open to traffic; and (B) the reconstruction of a permanent bridge at the site of the original Hood Canal bridge. [1982 1st ex.s. c 13 § 2; 1980 c 2 § 3; 1979 ex.s. c 84 § 3; 1975 1st ex.s. c 182 § 1; 1973 1st ex.s. c 203 § 1; 1971 ex.s. c 286 § 3.]

Intent—1980 c 2; 1979 ex.s. c 84: See note following RCW 43.21C.032.

90.58.500 Exemption from this chapter for emergency recovery operations from Mt. St. Helens eruption authorized—Expiration of section. Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210 may be exempted by the applicable county legislative authority from the requirements of the Shoreline Management Act of 1971, chapter 90.58 RCW, for operations within such county: *Provided*, That the applicable legislative authority shall promptly notify the department of ecology of the emergency action taken and the emergent nature of the problem.

This section shall expire on June 30, 1984. [1982 c 7 § 4.]

Severability—1982 c 7: See note following RCW 36.01.150.

Chapter 90.62

ENVIRONMENTAL COORDINATION PROCEDURES ACT

Sections

90.62.010	Legislative finding—Purposes.
90.62.060	Public hearing—Procedure—Agency participation—Final decisions.

90.62.010 Legislative finding—Purposes. (1) It is the sense of the legislature that the heavy burdens placed upon persons proposing to undertake certain types of projects in this state through requirements to obtain numerous permits and related documents from various state and local agencies are undesirable and should be alleviated. The legislature further finds that present methods for obtaining public views in relation to applications to state and local agencies pertaining to

these projects are cumbersome and place undue hardships on members of the public thereby thwarting the public's ability to present such views.

(2) The purposes of this chapter are to:

(a) Provide for an optional procedure to assist those who, in the course of satisfying the requirements of state and local government prior to undertaking a project which contemplates the use of the state's air, land, or water resources, must obtain a number of permits, by establishing a mechanism in state government which will coordinate administrative decision-making procedures, and related quasi judicial and judicial review, pertaining to such documents.

(b) Provide to members of the public a better and easier opportunity to present their views comprehensively on proposed uses of natural resource and related environmental matters prior to the making of decisions on such uses by state or local agencies.

(c) Provide to members of the public who desire to carry out the aforementioned projects within the state of Washington a greater degree of certainty in terms of permit requirements of state and local government and when final decisions about the permits would be made.

(d) Provide better coordination and understanding between state and local agencies in the administration of the various programs relating to air, water, and land resources.

(e) Establish the opportunity for members of the public to obtain information pertaining to requirements of federal and state law which must be satisfied prior to undertaking a project in the state. [1982 c 179 § 1; 1977 c 54 § 1; 1973 1st ex.s. c 185 § 1.]

90.62.060 Public hearing—Procedure—Agency participation—Final decisions. (1) Except as provided in RCW 90.62.050(2), prior to any final decision on any permit applications relating to a project subject to the procedures of this chapter, a public hearing shall be held in the county in which all or a major part of the proposed project is to be constructed or operated, such hearing to be held pursuant to notice made under RCW 90.62.050(1). At any such hearing the applicant may submit any relevant information and material in support of his applications, and members of the public may present relevant views and supporting materials in relation to any or all of the applications being considered.

(2) Each agency having an application for a permit before it as described in the notice in RCW 90.62.050(1) shall be represented at the public hearing by its chief administrative officer or his designee. The director of the department, or a hearing officer duly appointed by him, shall chair the hearing; however, the representative of any agency (other than the department) within whose jurisdiction a specific application lies shall conduct the portion of the hearing pertaining to submission of information, views, and supporting materials which are relevant to that application. The chairman may, when appropriate, continue a hearing from time to time and place to place. The hearing shall be recorded in any manner suitable for transcription as determined by the department.

(3) No provisions of chapter 34.04 RCW shall apply to the hearing provided for by this section. Said hearing shall be conducted for the purpose of obtaining information for the assistance of the agencies but shall not be considered a trial or adversary proceeding.

(4) Upon completion of the public hearing the chairman, after consultation with the agency representatives, shall establish the date by which all agencies shall forward their final decisions on applications before them to the department: *Provided*, That this date shall not be more than one hundred twenty days after completion of the public hearing, unless the chairman and the applicant mutually agree upon a later date: *Provided further*, That subsequent to the hearing the chairman and the applicant may agree, prior to the expiration of the one-hundred twenty day period or the agreed upon later date, that the date for agencies to forward their final decisions may be extended. If such agreement is reached, the affected agencies shall be notified in writing by the chairman. Failure of an agency to forward a decision by the established date constitutes unconditional approval by that agency of the application. Every final decision shall set forth the basis for the conclusion reached together with a final order denying the application for a permit or granting it, subject to such conditions of approval as the deciding agency may have power to impose.

(5) In situations where a notice is provided pursuant to RCW 90.62.050(2) and no public hearing is conducted, the department shall, after twenty days after the last notice publication in the newspaper, submit a copy of all views and supporting material received by it to each agency having an application for a permit before it as described in the notice. Concurrently therewith, the department shall notify each agency, in writing, of the date by which final decisions on applications shall be forwarded to the department: *Provided*, That this date shall not be more than one hundred fifty days after the last required publication of notice in the newspaper unless the department and the applicant mutually agree upon a later date: *Provided further*, That subsequent to the last required publication, the chairman and the applicant may agree, prior to the expiration of the one-hundred fifty day period or the agreed upon later date, that the date for agencies to forward their final decisions may be extended. If such agreement is reached, the affected agencies shall be notified in writing by the chairman. Failure of an agency to forward a decision by the established date shall constitute unconditional approval by that agency of the application. Each such final decision shall consist of the same contents as provided for final decisions in RCW 90.62.060(4).

(6) As soon as all final decisions are received by the department from the various participating agencies, as provided in RCW 90.62.060(4) and (5), the department shall incorporate them, without modification, into one document and transmit the same to the applicant either personally or by registered mail.

(7) Each agency having jurisdiction to approve or deny an application for a permit shall have continuing power as vested in it prior to enactment of this chapter

to make such determinations. Nothing in RCW 90.62-.030 through 90.62.060 shall lessen or reduce such powers, and such sections shall modify only the procedures to be followed in the carrying out of such powers.

(8) An agency may in the performance of its responsibilities of decision making under this chapter, request or receive additional information from an applicant and others prior or subsequent to a public hearing as necessary to the performance thereof. [1982 c 179 § 2; 1977 c 54 § 5; 1973 1st ex.s. c 185 § 6.]

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